

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AKTHAM ABUHOURAN)	
)	C.A. NO. 05-40127-GAO
v.)	
)	
DAVID L. WINN, WARDEN)	
FMC DEVENS.)	
)

**UNITED STATES' MOTION TO DISMISS
§2241 PETITION FOR WANT OF JURISDICTION**

The government asks the Court to dismiss petitioner Aktham Abuhouran's §2241 petition because it is really a successive §2255 claim that should have been brought in the Third Circuit, and he has not established entitlement to bring a §2241 "savings clause" petition. While the government is filing this motion electronically, it will file the voluminous attachments in hard copy only.

A. Procedural History

On October 29, 1996, a jury in the Eastern District of Pennsylvania found Abuhouran guilty of four counts of bank fraud under 18 U.S.C. §1344, one count of money laundering under 18 U.S.C. §1956, and one count of conspiracy under 18 U.S.C. §371 [Attachment A (docket entry 187)]. On August 22, 1997, he was sentenced to 109 months of incarceration [Attachment A (docket entry 342)].

Abuhouran filed an unsuccessful direct appeal from his conviction with the United States Court of Appeals for the Third Circuit. United States v. Abuhouran, 162 F.3d 230 (3rd Cir. 1998). On January 10, 2000, Abuhouran filed a §2255 motion in the District Court for

the Eastern District of Pennsylvania, challenging his conviction and sentencing on the money laundering count as improper because it was indistinct from the predicate offense of bank fraud [Attachment A (docket entry 424)]. That court denied Abuhouran's petition on July 12, 2001, finding Abuhouran's §2255 challenge to his conviction unavailing because the Court of Appeals had already rejected this claim in the direct appeal. United States v. Abuhouran, 2001 WL 849716 (E.D.Pa. July 12, 2001).

Abuhouran then filed a series of applications for successive §2255 motions, all of which were denied; a series of requests for a certificate of appealability, all of which were denied; a motion to recall the mandate, which was construed as a motion to reopen the case and denied; and a §3582 motion to modify or correct the imposed term of imprisonment, which was also denied [Attachment A (docket entries 455, 480, 481, 486, 496, 497)]. On July 26, 2005, while incarcerated at FMC Fort Devens, in Massachusetts, Abuhouran filed the above-captioned §2241 petition with the Court. In a September 30, 2005 Memorandum and Order, the Court asked the government to respond to the petition.

B. The District Court Should Dismiss Abuhouran's Petition

The essence of Abuhouran's claim is that he is "actually innocent" of the charges in the money laundering count and that new evidence has become available to prove his innocence. He presents, as new evidence, the allegations that his brother, Hitham Abuhouran, forged his signature on the \$100,000 check that was the subject of the money laundering conviction, and that the government threatened this same brother with retaliation if he testified in Aktham Abuhouran's defense.

1. The legal standards

Ordinarily, a federal prisoner may collaterally attack his conviction, if at all, only through a motion to correct or vacate his sentence under 28 U.S.C. §2255, and not through a petition for a writ of habeas corpus under 28 U.S.C. §2241. Section 2241 is normally the vehicle to attack the execution, and not the validity, of a conviction or sentence. United States v. Barrett, 178 F.3d 34, 50 (1st Cir. 1999).

Section 2255 poses obstacles for Abuhouran's claim, however. He has already filed a §2255 petition, and another §2255 petition in the Eastern District of Pennsylvania would constitute a successive petition requiring approval by the Third Circuit Court of Appeals.¹ Indeed, Abuhouran has already unsuccessfully attempted to file successive §2255 petitions.

Nor does §2241 "save" Abuhouran's claim. Under §2255's "savings clause," a prisoner may seek habeas relief if §2255 is "inadequate or ineffective to test the legality of his detention."² Section 2255 is not "inadequate or ineffective" simply because a prisoner

¹Section 2255 provides that "[a] second or successive petition must be certified as provided in section 2244 by a panel of the appropriate court of appeals."

²The "savings clause" provides:

An application for a writ of habeas corpus on behalf of a prisoner who is authorized to apply for relief by motion pursuant to this section, shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced him, or that such court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention.

has been denied permission or is likely to be denied permission to file a second or successive motion under §2255. See Charles v. Chandler, 180 F.3d 753, 757 (6th Cir. 1999) (per curiam) (collecting cases). As numerous courts have noted, such a result would "nullify" the limitations that Congress has placed on collateral review. See, e.g., Barrett, 178 F.3d at 50; In re Davenport, 147 F.3d 605, 608 (7th Cir. 1998).

While this Court has not defined the exact parameters of the "savings clause," it has made clear that the "savings clause" cannot be used to circumvent limitations imposed by Congress, and that its reach should be no broader than that identified by those circuit courts which have applied the clause to grant relief to post-Bailey defendants.³ Barrett, 178 F.3d at 50. Barrett noted that these courts have limited the use of the "savings clause" to situations where a defendant is actually innocent of the charges because the crime no longer exists and cannot bring his claim under §2255.⁴ Id. At 51 (citing Davenport, 147 F.3d at

³In Bailey v. United States, 516 U.S. 137 (1995), the Supreme Court clarified the meaning of the term "use" in 18 U.S.C. §924(c), rendering it inapplicable to "fortress" cases. Courts have held that Bailey claims do not involve a "new rule of constitutional law" or "newly-discovered evidence," and therefore do not satisfy §2255's gate-keeping requirements for successive petitions. See, e.g., In re Davenport, 147 F.3d 611; Triestman v. United States, 124 F.3d 361, 371-372 (2nd Cir. 1997); and In re Dorsainvil, 119 F.3d 245, 247-248 (3rd Cir. 1997). These courts have also held that in some circumstances, post-Bailey defendants may press their Bailey claims in a §2241 petition. In United States v. Prevatte, 300 F.3d 792 (7th Cir. 2002), the Seventh Circuit held that a claim based on Jones v. United States, 529 U.S. 848 (2000), might be similar to a Bailey claim and cognizable under §2241.

⁴In Davenport, the Seventh Circuit held that §2255 may be inadequate or ineffective "when it is so configured as to deny a convicted defendant any opportunity for judicial rectification of so fundamental a defect in his conviction as having been imprisoned for a nonexistent offense." 147 F.3d at 611. And in Dorsainvil, the Third Circuit stated that "[i]f . . . it is a 'complete miscarriage of justice' to punish a defendant for an act that the law does

611).

Since Barrett (and the cases cited there), other courts have found the “savings clause’s” application to be similarly narrow. See Jiminian v. Nash, 245 F.3d 144 (2nd Cir. 2001) (“§2255 is not inadequate or ineffective, such that a federal prisoner may file a §2241(c)(3) petition, simply because a prisoner cannot meet the AEDPA’s gate-keeping requirements, provided that the claim the prisoner seeks to raise was previously available on direct appeal or in a prior §2255 motion”); Reyes-Requena v. United States, 243 F.3d 893, 904 (5th Cir. 2001) (without defining the exact scope of the “savings clause,” the Fifth Circuit ruled that it “applies to a claim (i) that is based on a retroactively applicable Supreme Court decision which establishes that the petitioner may have been convicted of a nonexistent offense and (ii) that was foreclosed by circuit law at the time when the claim should have been raised in the petitioner’s trial, appeal, or first §2255 motion”); United States v. Lurie, 207 F.3d 1075, 1077 (8th Cir. 2000) (§2255 “is not inadequate or ineffective merely because §2255 relief has already been denied . . . , or because petitioner has been denied permission to file a second or successive §2255 motion . . . , or because a second or successive §2255 motion has been dismissed . . . , or because petitioner has allowed the one year statute of limitations and/or grace period to expire”); Wofford v. Scott, 177 F.3d 1236, 1244 (11th Cir.

not make criminal, thereby warranting resort to the collateral remedy afforded by §2255, it must follow that it is the same ‘complete miscarriage of justice’ when the AEDPA amendment to §2255 makes that collateral remedy unavailable. In that unusual circumstance, the remedy afforded by §2255 is “inadequate or ineffective”). 119 F.3d at 251. See also Barrett, 178 F.3d at 51.

1999) (without defining the exact reach of the “savings clause,” the Eleventh Circuit held that it “applies to a claim when: 1) that claim is based upon a retroactively applicable Supreme Court decision; 2) the holding of that Supreme Court decision establishes the petitioner was convicted for a nonexistent offense; and, 3) circuit law squarely foreclosed such a claim at the time it otherwise should have been raised in the petitioner's trial, appeal, or first §2255 motion,” and in any event does not apply “to free a prisoner of the effects of his failure to rise an available claim earlier”).

Abuhouran’s §2241 petition does not warrant review under the “savings clause” merely because he cannot obtain review under the successive petition rules. Nor does his assertion that he is actually innocent of the crimes of conviction change this analysis. He supports his assertion of newly discovered evidence with two exhibits, which he has attached to his motion, but he provides no explanation for why he could not have raised his “actual innocence” claim on direct appeal or in his initial §2255 petition.

Abuhouran’s Exhibit A is the affidavit of his brother and co-defendant, Hitham Abuhouran, stating that he repeatedly forged Aktham Abuhouran’s signatures on applications and documents, including the \$100,000 check relating to the money laundering count. This certainly does not constitute newly-discovered evidence, as Aktham Abuhouran would have known all along if his signature had been forged on this check and could, therefore, have made this argument at trial, on appeal, and in his initial §2255 petition. Furthermore, Abuhouran’s claim that the government conceded that he never signed or issued checks shows that the issue of his signatures and the forgery was a live issue at trial

and is, therefore, not newly discovered.

Abuhouran's Exhibit B appears to be a September 20, 1996 letter, from Hitham Abuhouran's attorney to the prosecutor, alleging that the prosecutor threatened to "suspend" any further cooperation by Hitham until after Aktham Abuhouran's trial. This letter does not support Abuhouran's actual innocence claim, nor does it constitute newly-discovered evidence. Abuhouran has had ample opportunity, since 1996, to speak to, and correspond with, his brother and learn of this alleged threat and his brother's allegedly exculpatory testimony.⁵ But Abuhouran has failed to present evidence showing that he was unable to secure his brother's testimony at trial because of the alleged threat.

While Abuhouran claims that the exhibits to his petition demonstrate that he is "actually innocent," he has failed to show that any of this allegedly-exculpatory material is newly-discovered. Furthermore, even if this material constituted newly-discovered evidence, the appropriate vehicle for Abuhouran's claim is an application, with the Third Circuit, to file a successive §2255 petition. He has therefore failed to establish that his claim comes within the "savings clause" of §2255.⁶

C. Conclusion

⁵ Abuhouran and his brother were initially incarcerated in the same facility from August, 1997 until March 19, 1998. Abuhouran v. Morison, et al., C.A. No. 03-3091, Memorandum and Order (Sept. 1, 2005) at 4 [Attachment B]. For most of the time since then, despite being incarcerated at separate facilities, the brothers were permitted to correspond with each other. Id.

⁶The petitioner carries the burden of demonstrating that §2255 is inadequate or ineffective. Reyes-Requena, 243 F.3d at 901; Lurie, 207 F.3d at 1078.

In short, Abuhouran's §2241 petition is really a successive §2255 claim that should have been brought in the Third Circuit, and he has not established entitlement to bring a §2241 "savings clause" petition. Accordingly the government respectfully requests that the Court dismiss his §2241 petition for want of jurisdiction.⁷

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Adam J. Bookbinder
Adam J. Bookbinder
Assistant U.S. Attorney

Date: December 16, 2005

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Aktham Abuhouran
Reg. No. 18938-050
F.M.C. Devens
P.O. Box 879
Ayer, MA 01432

Date: December 16, 2005

/s/ Adam Bookbinder
Adam J. Bookbinder

⁷If the Court finds it cannot dismiss the petition, the government asks for the opportunity to further brief the petition's merits.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS *FILED
CLERKS OFFICE*

AKTHAM ABUHOURAN) C.A. NO. 05-40127-GAO P 4:0:
)
v.) U.S. DISTRICT COURT
) DISTRICT OF MASS.
DAVID L. WINN, WARDEN)
FMC DEVENS.)
)

ATTACHMENTS TO
UNITED STATES' MOTION TO DISMISS
§2241 PETITION FOR WANT OF JURISDICTION

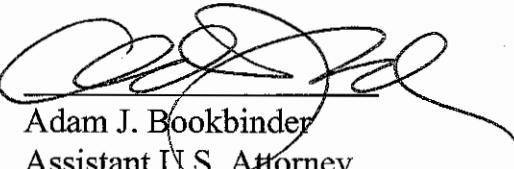
Because these attachments are voluminous, they are being filed in hard copy only.

The motion is being filed electronically.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By:


Adam J. Bookbinder
Assistant U.S. Attorney

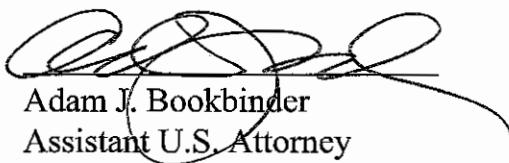
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Aktham Abuhouran
Reg. No. 18938-050
F.M.C. Devens
P.O. Box 879
Ayer, MA 01432

Date: December 16, 2005



Adam J. Bookbinder
Assistant U.S. Attorney

CLOSED, SEALDC

**United States District Court
Eastern District of Pennsylvania (Philadelphia)
CRIMINAL DOCKET FOR CASE #: 2:95-cr-00560-LP-4**

Case title: USA v. ABUHOURAN, et al

Date Filed: 10/03/1995

Assigned to: JUDGE LOUIS H.
POLLAK

Defendant

AKTHAM ABUHOURAN (4)

TERMINATED: 09/03/1997

also known as
TONY HOURAN

represented by **AKTHAM ABUHOURAN**
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Designation: CJA Appointment

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TERMINATED: 09/03/1997
LEAD ATTORNEY
Designation: Retained

Pending Counts

Disposition

18:1344 BANK FRAUD; and 18:2
AIDING AND ABETTING
(5)

IMPRISONMENT FOR A TERM OF
109 MONTHS TO RUN
CONCURRENTLY; SUPERVISED
RELEASE OF 5 YEARS;
ASSESSMENT OF \$350.00;
RESTITUTION OF 1,860,477.44.

18:1344 BANK FRAUD; AND 18:2
AIDING AND ABETTING
(20)

IMPRISONMENT FOR A TERM OF
109 MONTHS TO RUN
CONCURRENTLY; SUPERVISED
RELEASE OF 5 YEARS;
ASSESSMENT OF \$350.00;
RESTITUTION OF 1,860,477.44.

18:1344 BANK FRAUD; AND 18:2
AIDING AND ABETTING
(26)

IMPRISONMENT FOR A TERM OF
109 MONTHS TO RUN
CONCURRENTLY; SUPERVISED
RELEASE OF 5 YEARS;
ASSESSMENT OF \$350.00;
RESTITUTION OF 1,860,477.44.

18:1956 MONEY LAUNDERING:
AND 18:2 AIDING AND ABETTING
(27)

IMPRISONMENT FOR A TERM OF
109 MONTHS TO RUN
CONCURRENTLY; SUPERVISED
RELEASE OF 5 YEARS;
ASSESSMENT OF \$350.00;
RESTITUTION OF 1,860,477.44.

18:1344 BANK FRAUD; AND 18:2
AIDING AND ABETTING
(47)

IMPRISONMENT FOR A TERM OF
109 MONTHS TO RUN
CONCURRENTLY; SUPERVISED
RELEASE OF 5 YEARS;
ASSESSMENT OF \$350.00;
RESTITUTION OF 1,860,477.44.

18:371 CONSPIRACY
(48)

IMPRISONMENT FOR A TERM OF
109 MONTHS TO RUN
CONCURRENTLY; SUPERVISED
RELEASE OF 5 YEARS;
ASSESSMENT OF \$350.00;
RESTITUTION OF 1,860,477.44.

18:1623 PERJURY
(51)

IMPRISONMENT FOR A TERM OF
109 MONTHS TO RUN
CONCURRENTLY; SUPERVISED
RELEASE OF 5 YEARS;
ASSESSMENT OF \$350.00;
RESTITUTION OF 1,860,477.44.

18:371 CONSPIRACY; and 18:982,
(COUNT 57), FORFEITURE
(54)

IMPRISONMENT FOR A TERM OF
109 MONTHS TO RUN
CONCURRENTLY; SUPERVISED
RELEASE OF 5 YEARS;
ASSESSMENT OF \$350.00;
RESTITUTION OF 1,860,477.44.

Highest Offense Level (Opening)

Felony

Terminated Counts

18:1344 BANK FRAUD; and 18:2
AIDING AND ABETTING
(16)

18:2314 INTERSTATE
TRANSPORTATION OF PROPERTY
OBTAINED BY FRAUD; AND 18:2
AIDING AND ABETTING
(17)

Disposition

IMPRISONMENT FOR A TERM OF
109 MONTHS TO RUN
CONCURRENTLY; SUPERVISED
RELEASE OF 5 YEARS;
ASSESSMENT OF \$350.00;
RESTITUTION OF 1,860,477.44.

IMPRISONMENT FOR A TERM OF
109 MONTHS TO RUN
CONCURRENTLY; SUPERVISED
RELEASE OF 5 YEARS;
ASSESSMENT OF \$350.00;
RESTITUTION OF 1,860,477.44.

Highest Offense Level (Terminated)

Felony

Complaints

None

Disposition

Interested Party

SAYER SAWAGED

represented by **PAUL J. KILLION**
214 PINE STREET
HARRISBURG, PA 17101
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Interested Party

BADIA SAWAGED

represented by **PAUL J. KILLION**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Plaintiff

USA

represented by **ROBERT A. ZAUZMER**

UNITED STATES ATTORNEY'S
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Email: bob.zauzmer@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

ROBERT A. ZAUZMER
(See above for address)

Date Filed	#	Docket Text
10/03/1995	1	Sealed Indictment as to HITHAM ABUHOURAN (1) count(s) 1, 3, 5, 7, 8, 10, 12, 14, 16, 17, 18, 20, 22, 24, 26, 27, 29, 30, 31, 33, 47, 48, 49, 50, 54, 56, SETH T. GARDNER (2) count(s) 2, 4, 6, 9, 11, 13, 15, 19, 21, 23, 25, 28, 32, 34-35, 36-46, 55, ADHAM ABUHOURAN (3) count(s) 7, 8, 18, 20, 26, 27, 33, 47, 48, 53, 54, AKTHAM ABUHOURAN (4) count (s) 5, 16, 17, 20, 26, 27, 47, 48, 51, 54, ADMA ABUHOURAN (5) count (s) 26, 29, 30, 31, 48, KASSEM ALAOUIE (6) count(s) 48, 52, KARAM SALIB (7) count(s) 1, 7, 22, 26, 29, (sb) Modified on 11/06/1995 (Entered: 10/13/1995)
10/03/1995	2	MOTION and ORDER Sealing Indictment as to HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAOUIE, KARAM SALIB (Signed by MAGISTRATE JUDGE RICHARD A. POWERS III) (sb) (Entered: 10/13/1995)
10/03/1995	5	MOTION and ORDER for Issuance of Bench Warrant as to AKTHAM ABUHOURAN (Signed by MAGISTRATE JUDGE RICHARD A. POWERS III) (sb) (Entered: 10/13/1995)
10/03/1995		Bench Warrant issued as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN . (sb) (Entered: 10/13/1995)
10/12/1995	7	Letter from AUSA Unsealing Indictment as to HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAOUIE, KARAM SALIB (sb) (Entered: 10/13/1995)
10/12/1995		Indictment unsealed as to HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAOUIE, KARAM SALIB (sb) (Entered: 10/13/1995)
10/12/1995	8	Notice of Lis Pendens as to HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN,

		ADMA ABUHOURAN, KASSEM ALAOUIE and KARAM SALIB, Re: Forfeiture of Premises located at 338 Orangeburgh Road. (lb) (Entered: 10/13/1995)
10/12/1995	9	Notice of Lis Pendens as to HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAOUIE and KARAM SALIB, Re: Forfeiture of Premises located at 31 Wildwood Road. (lb) (Entered: 10/13/1995)
10/16/1995	16	Minute entry dated 10/13/95 as to AKTHAM ABUHOURAN: Re: No bail set. Government's motion for continuance granted. Pretrial detention hearing and arraignment scheduled for 10/17/95 at 2:00 p.m., before Mag. Judge Scuderi. (EEN) (lb) (Entered: 10/17/1995)
10/16/1995	17	ORDER OF TEMPORARY DETENTION DATED 10/13/95 THAT A DETENTION HEARING IS SET FOR 10/17/95 AT 2:00 P.M., BEFORE MAG. JUDGE SCUDERI AS TO AKTHAM ABUHOURAN. (SIGNED BY MAGISTRATE JUDGE EDWIN E. NAYTHONS), 10/17/95 ENTERED AND COPIES MAILED. (lb) (Entered: 10/17/1995)
10/17/1995	24	MOTION BY USA AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN AND ADMA ABUHOURAN FOR PRETRIAL DETENTION , CERT. OF SERVICE. (lb) (Entered: 10/18/1995)
10/17/1995		5% Cash Bond entered by AKTHAM ABUHOURAN in the Amount of \$ 100,000. (lb) (Entered: 10/18/1995)
10/17/1995		Arraignment as to AKTHAM ABUHOURAN HELD, count(s) 5, 16, 17, 20, 26, 27, 47, 48, 51, 54. (lb) (Entered: 10/18/1995)
10/17/1995	28	Plea entered 10/17/95 by AKTHAM ABUHOURAN. Court accepts plea. NOT GUILTY: count(s) 5, 16, 17, 20, 26, 27, 47, 48, 51, 54 (Terminated motions - DENYING [24-1] MOTION FOR PRETRIAL DETENTION as to AKTHAM ABUHOURAN). Bail set \$ 100,000 - 5%. Defendant must report to Pretrial Services once a week in person and twice a week by phone with conditions. (PBS) (lb) (Entered: 10/18/1995)
10/17/1995	29	Notice of Appearance for AKTHAM ABUHOURAN by Attorney, JOSEPH P. GRIMES. (lb) (Entered: 10/18/1995)
10/19/1995	35	Arrest Warrant Returned Executed as to AKTHAM ABUHOURAN on 10/16/95. (lb) (Entered: 10/19/1995)
10/20/1995	37	APPLICATION BY USA AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAOUIE AND KARAM SALIB, FOR ORDER TO DISCLOSE RETURNS AND RETURN INFORMATION , CERT. OF SERVICE. (lb) (Entered: 10/20/1995)
10/20/1995	38	MOTION BY USA AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN,

		ADMA ABUHOURAN, KASSEM ALAQIE AND KARAM SALIB, TO OBTAIN INFORMATION REGARDING A CABLE SUBSCRIBER , CERT. OF SERVICE. (lb) (Entered: 10/20/1995)
10/20/1995	39	MOTION BY USA AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAQIE AND KARAM SALIB, TO PROVIDE HANDWRITING EXEMPLARS , CERT. OF SERVICE. (lb) (Entered: 10/20/1995)
10/20/1995	40	MOTION BY USA AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAQIE AND KARAM SALIB, TO HAVE CAPTIONED CASE DECLARED COMPLEX , CERT. OF SERVICE. (lb) (Entered: 10/20/1995)
10/24/1995	43	ORDER DATED 10/23/95 FOR SPEEDY TRIAL ACT DELAY: THAT EXCLUDABLE TIME IN THIS CASE BE COMPUTED AND ENTERED IN THE RECORD FROM THE DATE OF FILING OF GOVERNMENT'S MOTION AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAQIE AND KARAM SALIB, RE: [37-1] MOTION FOR ORDER TO DISCLOSE RETURNS AND RETURN INFORMATION UNTIL SUCH TIME THAT A HEARING ON SAID MOTION IS CONCLUDED OR OTHER PROMPT DISPOSITION IS MADE. (SIGNED BY JUDGE LOUIS H. POLLAK), 10/25/95 ENTERED AND COPIES MAILED. (lb) (Entered: 10/25/1995)
10/24/1995	44	ORDER DATED 10/23/95 FOR SPEEDY TRIAL ACT DELAY: THAT EXCLUDABLE TIME IN THIS CASE BE COMPUTED AND ENTERED IN THE RECORD FROM THE DATE OF FILING OF THE GOVERNMENT'S MOTION AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAQIE AND KARAM SALIB, RE: [38-1] MOTION TO OBTAIN INFORMATION REGARDING A CABLE SUBSCRIBER UNTIL SUCH TIME THAT A HEARING ON SAID MOTION IS CONCLUDED OR OTHER PROMPT DISPOSITION IS MADE. (SIGNED BY JUDGE LOUIS H. POLLAK), 10/25/95 ENTERED AND COPIES MAILED. (lb) (Entered: 10/25/1995)
10/24/1995	45	ORDER DATED 10/23/95 FOR SPEEDY TRIAL ACT DELAY: THAT EXCLUDABLE TIME BE COMPUTED AND ENTERED IN THE RECORD FROM THE DATE OF FILING OF THE GOVERNMENT'S MOTION AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAQIE AND KARAM SALIB, RE: [39-1] MOTION TO PROVIDE HANDWRITING EXEMPLARS UNTIL SUCH TIME THAT A HEARING ON SAID MOTION IS CONCLUDED OR OTHER PROMPT DISPOSITION IS MADE. (SIGNED BY JUDGE LOUIS H. POLLAK), 10/25/95 ENTERED AND

		COPIES MAILED. (lb) (Entered: 10/25/1995)
10/24/1995	46	ORDER DATED 10/23/95 FOR SPEEDY TRIAL ACT DELAY: THAT EXCLUDABLE TIME IN THIS CASE BE COMPUTED AND ENTERED IN THE RECORD FROM THE DATE OF FILING OF GOVERNMENT'S MOTION AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAOUIE, KARAM SALIB, RE: [40-1] MOTION TO HAVE CAPTIONED CASE DECLARED COMPLEX UNTIL SUCH TIME THAT A HEARING ON SAID MOTION IS CONCLUDED OR OTHER PROMPT DISPOSITION IS MADE. (SIGNED BY JUDGE LOUIS H. POLLAK), 10/25/95 ENTERED AND COPIES MAILED. (lb) (Entered: 10/25/1995)
10/30/1995	51	Notice of Appearance for AKTHAM ABUHOURAN by Attorney, Joseph P. Grimes. (lb) (Entered: 10/30/1995)
11/01/1995	52	Amended Application for order to disclose returns and return information by USA as to HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN and KASSEM KARAM SALIB, Cert. of Service. (lb) (Entered: 11/01/1995)
11/06/1995	57	Stipulation of Counsel as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN re: scheduling deadlines. (rs) (Entered: 11/06/1995)
11/08/1995	60	STIPULATION AND ORDER DATED 11/8/95 AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN AND ADMA ABUHOURAN THAT THE STIPULATION IS APPROVED AND AN ORDER IS ENTERED PURSUANT TO THE TERMS CONTAINED THEREIN. (SIGNED BY JUDGE LOUIS H. POLLAK), 11/9/95 ENTERED AND COPIES MAILED. (lb) (Entered: 11/09/1995)
11/20/1995	61	Rule 40 Documents as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN received from District of New Jersey. (rs) (Entered: 11/20/1995)
11/28/1995	62	ORDER AMENDING CONDITIONS OF RELEASE DATED 11/27/95 AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN AND ADMA ABUHOURAN THAT THE CONDITIONS OF RELEASE FOR EACH DEFENDANT SHALL BE AMENDED TO PERMIT TRAVEL INTO THE EASTERN AND SOUTHERN DISTRICTS OF NEW YORK AS WELL AS THE DISTRICT OF NEW JERSEY AND THE EASTERN DISTRICT OF PENNSYLVANIA. THE DEFENDANT'S NEED NOT BE REQUIRED TO AGAIN THE PERMISSION OF PRE-TRIAL SERVICES IN ADVANCE OF EACH TRIP. (SIGNED BY MAGISTRATE JUDGE PETER B. SCUDERI), 11/28/95 ENTERED AND COPIES MAILED. (lb) (Entered: 11/28/1995)
01/03/1996	68	Amended Stipulation as to HITHAM ABUHOURAN, ADHAM

		ABUHOURAN, AKTHAM ABUHOURAN and ADMA ABUHOURAN. (lb) (Entered: 01/03/1996)
01/04/1996	69	ORDER DATED 1/4/96 AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN AND KASSEM ALAQUIE THAT A PRETRIAL CONFERENCE WILL BE HELD ON 1/16/96 AT 11:00 A.M. (SIGNED BY JUDGE LOUIS H. POLLAK), 1/5/96 ENTERED. (lb) (Entered: 01/05/1996)
01/22/1996	70	ORDER DATED 1/22/96 AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN AND KASSEM ALAQUIE THAT A PRETRIAL CONFERENCE WILL BE HELD ON 2/8/96 AT 9:00 A.M. (SIGNED BY JUDGE LOUIS H. POLLAK), 1/22/96 ENTERED. (lb) (Entered: 01/22/1996)
02/01/1996	75	OMNIBUS MOTIONS BY AKTHAM ABUHOURAN, ORDER PURSUANT TO FEDERAL RULE OF CRIMINAL PROCEDURE 14, SEVERING THE TRIAL OF AKTHAM ABUHOURAN FROM HIS CO-DEFENDANTS , ORDER PURSUANT TO FEDERAL RULE OF CRIMINAL PROCEDURE 16, COMPELLING THE GOVERNMENT TO DISCLOSE ANY AND ALL EXCULPATORY AND/OR FAVORABLE INFORMATION WITHIN THEIR EXCLUSIVE CONTROL , FOR DISCLOSURE OF "JENCKS" MATERIAL UNDER TITLE XVIII, U.S.C. 3500 , FOR BILL OF PARTICULARS AND PERMITTING DEFENDANT TO JOIN IN ANY APPROPRIATE MOTIONS FILED ON BEHALF OF CO-DEFENDANTS , MEMORANDUM, CERT. OF SERVICE. (lb) (Entered: 02/02/1996)
02/06/1996	78	ORDER DATED 2/1/96 FOR SPEEDY TRIAL ACT DELAY: THAT EXCLUDABLE TIME IN THIS CASE BE COMPUTED AND ENTERED IN THE RECORD FROM THE DATE OF FILING OF DEFENDANT AKTHAM ABUHOURAN, RE: OMNIBUS MOTIONS, UNTIL SUCH TIME THAT A HEARING ON SAID MOTION IS CONCLUDED OR OTHER PROMPT DISPOSITION IS MADE. (SIGNED BY JUDGE LOUIS H. POLLAK), 2/7/96 ENTERED AND COPIES MAILED. (lb) (Entered: 02/07/1996)
02/12/1996	80	Minute entry dated 2/8/96 as to HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN and KASSEM ALAQUIE: Re: Pretrial conference. Criminal jury trial specially listed for 9/9/96 at 9:30 a.m. (lb) (Entered: 02/13/1996)
02/12/1996	81	ORDER DATED 2/8/96 FOR SPECIAL LISTING OF TRIAL AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN AND KASSEM ALAQUIE SETTING JURY TRIAL FOR 9:30 ON 9/9/96. (SIGNED BY JUDGE LOUIS H. POLLAK), 2/13/96 ENTERED. (lb) (Entered: 02/13/1996)

02/16/1996	84	Response by USA as to HITHAM ABUHOURAN, SETH T. GARDNER, AKTHAM ABUHOURAN and ADMA ABUHOURAN, Re: Defendant's Pretrial motion, Memorandum, Cert. of Service. (lb) (Entered: 02/20/1996)
02/22/1996	86	ORDER DATED 2/22/96 OF CONTINUANCE AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN AND KASSEM ALAQI THAT THIS CASE CANNOT PROCEED TO TRIAL AND DISPOSITION AND MUST BE CONTINUED BECAUSE AS A WHOLE IS SO UNUSUAL AND SO COMPLEX, DUE TO THE NUMBER OF DEFENDANTS OR THE NATURE OF THE PROSECUTION AND OTHER COMPLEXITY, THAT IT IS UNREASONABLE TO EXPECT ADEQUATE PREPARATION WITHIN THE PERIODS OF TIME ESTABLISHED IN ACCORDANCE WITH 18 U.S.C. 3161(h)(8). (SIGNED BY JUDGE LOUIS H. POLLAK), 2/23/96 ENTERED. (lb) (Entered: 02/23/1996)
02/22/1996	87	ORDER DATED 2/22/96 AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM KARAM SALIB GRANTING AS UNOPPOSED [39-1] MOTION TO PROVIDE HANDWRITING EXEMPLARS, GRANTING AS UNOPPOSED [38-1] MOTION TO OBTAIN INFORMATION REGARDING A CABLE SUBSCRIBER AND GRANTING AS UNOPPOSED [37-1] MOTION FOR ORDER TO DISCLOSE RETURNS AND RETURN INFORMATION. (SIGNED BY JUDGE LOUIS H. POLLAK), 2/23/96 ENTERED. (lb) (Entered: 02/23/1996)
03/05/1996	90	ORDER DATED 3/5/96 AS TO HITHAM ABUHOURAN, ET AL, GRANTING MOTION FOR AMENDED APPLICATION FOR ORDER TO DISCLOSE RETURNS AND RETURN INFORMATION. (SIGNED BY JUDGE LOUIS H. POLLAK), 3/6/96 ENTERED. (lb) (Entered: 03/06/1996)
03/05/1996	91	ORDER DATED 3/5/96 AS TO HITHAM ABUHOURAN, ET AL, GRANTING GOVERNMENT'S MOTION TO OBTAIN INFORMATION REGARDING A CABLE SUBSCRIBER. (SIGNED BY JUDGE LOUIS H. POLLAK), 3/6/96 ENTERED. (lb) Modified on 03/06/1996 (Entered: 03/06/1996)
04/17/1996	93	ORDER DATED 4/17/96 GRANTING DEFENDANT'S ADAM HOURAN (ADHAM ABUHOURAN AND TONY HOURAN (AKTHAM ABUHOURAN) PERMISSION TO ATTEND THE FUNERAL OF THEIR UNCLE IN ARIZONA SCHEDULED 4/19/96 WITH CONDITIONS. (SIGNED BY JUDGE LOUIS H. POLLAK), 4/18/96 ENTERED AND COPIES FAXED AND MAILED BY COURTROOM DEPUTY. (lb) (Entered: 04/18/1996)
05/23/1996	95	CONSENT ORDER DATED 5/20/96 FOR THE PERMISSION OF DEFENDANT AKTHAM ABUHOURAN TO TRAVEL MAY 20, 1996 TO MAY 26, 1996 TO NEWARK, NJ. ROUNDTRIP TO

		CHICAGO/ALSIP, ILLINOIS TO ATTEND RECEPTION FOR AMBASSADOR TO JORDAN. IT IS ORDERED THAT SERVICE OF THIS ORDER MAY BE MADE BY FAXING A COPY TO THE PRETRIAL SERVICES OFFICE OF PHILA., AND OR NEWARK NJ. (SIGNED BY JUDGE LOUIS H. POLLAK), 5/24/96 ENTERED AND COPIES MAILED AND FAXED BY COURTROOM DEPUTY. (lb) (Entered: 05/24/1996)
05/30/1996	96	EX PARTE MOTION BY USA AS TO HITHAM ABUHOURAN, ET AL, FOR ORDER LIMITING DISCOVERY . (cmc) (Entered: 06/06/1996)
05/30/1996	97	ORDER DATED 5/30/96 AS TO HITHAM ABUHOURAN, ET AL, GRANTING [96-1] MOTION FOR ORDER LIMITING DISCOVERY AS TO HITHAM ABUHOURAN, ET AL. (SIGNED BY JUDGE LOUIS H. POLLAK) 6/6/96 ENTERED AND COPIES MAILED. (cmc) (Entered: 06/06/1996)
05/30/1996	98	MOTION BY USA AS TO HITHAM ABUHOURAN, ET AL, TO IMPOUND THE GOVT.'S EX PARTE MOTION FOR ORDER LIMITING DISCOVERY . (cmc) (Entered: 06/06/1996)
05/30/1996	99	ORDER DATED 5/30/96 AS TO HITHAM ABUHOURAN, ET AL, [98-1] MOTION TO IMPOUND THE GOVT.'S EX PARTE MOTION FOR ORDER LIMITING DISCOVERY AS TO HITHAM ABUHOURAN, ET AL, IS GRANTED AND SHALL BE IMPOUNDED. (SIGNED BY JUDGE LOUIS H. POLLAK) 6/6/96 ENTERED AND COPIES MAILED. (cmc) (Entered: 06/06/1996)
05/30/1996	100	ORDER TO SEAL DOCUMENTS #96, 97, 98, 99, 100 AS TO HITHAM ABUHOURAN, ET AL, UNTIL FURTHER ORDER OF THIS COURT. (SIGNED BY JUDGE LOUIS H. POLLAK) 6/6/96 ENTERED AND COPIES MAILED. (cmc) (Entered: 06/06/1996)
06/25/1996	101	ORDER DATED 6/24/96 AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN AND KASSEM ALAQOUIE THAT ORAL ARGUMENT ON ALL OUTSTANDING MOTIONS WILL BE HELD ON 7/9/96 AT 10:30 A.M. (SIGNED BY JUDGE LOUIS H. POLLAK), 6/25/96 ENTERED AND COPIES MAILED AND FAXED. (lb) (Entered: 06/25/1996)
06/26/1996	102	MOTION BY USA AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAQOUIE AND KARAM SALIB, TO ADMIT EVIDENCE OF EXTRINSIC ACTS , MEMORANDUM, CERT. OF SERVICE. (lb) (Entered: 06/27/1996)
08/05/1996	103	Minute entry dated 7/9/96 as to HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN and KASSEM ALAQOUIE: Re: Outstanding Motions: RULING C.A.V. (lb) (Entered: 08/05/1996)

08/05/1996	104	MEMORANDUM AND ORDERS DATED 8/1/96 AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAQUIE AND KARAM SALIB THAT DEFENDANT HITHAM ABUHOURAN'S OMNIBUS MOTION DOC. # 71 DENYING MOTION FOR AN ORDER TO COMPEL BRADY MATERIAL, MOTION FOR AN ORDER TO COMPEL JENCKS MATERIAL, MOTION FOR A STARKS HEARING, MOTION FOR A VOLUNTARINESS HEARINGS, MOTION FOR A CONTINUANCE, MOTION FOR AN ORDER TO REQUIRE THE GOVERNMENT TO PROVIDE MATERIAL PURSUANT TO FEDERAL RULE OF EVIDENCE 404, MOTION FOR AN ORDER TO ALLOW DEFENDANT TO EXAMINE, PHOTOGRAPH, TEST AND INSPECT ALL DOCUMENTS IN THE GOVERNMENT'S POSSESSION, MOTION FOR AN ORDER TO COMPEL THE GOVERNMENT TO DISCLOSE THE IDENTITIES OF CONFIDENTIAL INFORMANTS, MOTION FOR SEVERANCE, MOTION FOR BILL OF PARTICULARS, MOTION FOR AN ORDER PURSUANT TO RULE 16(a)(1)(E), MOTION FOR PERMISSION TO ASK VOIR DIRE QUESTION AND MOTION TO DISMISS COUNT 56 OF THE INDICTMENT, OR IN ALTERNATIVE FOR DISCOVERY. DEFENDANT ADMA ABUHOURAN'S PRETRIAL MOTIONS DOC. # 73 THAT DEFENDANT MOTION TO DISMISS COUNT 26 IS GRANTED AND DENYING MOTION TO REQUIRE THE GOVERNMENT TO ELECT BETWEEN COUNTS 29, 30, 31, MOTION TO DISMISS COUNT 31, MOTION FOR BILL OF PARTICULARS AND DENYING MOTION FOR SEVERANCE AND DOCUMENT # 74 OF ADHAM ABUHOURAN'S PRETRIAL MOTION HE JOINS FILED BY ALL CO-DEFENDANT'S IS DENIED. DEFENDANT AKTHAM ABUHOURAN'S OMNIBUS MOTION DOCUMENT # 75 DENYING MOTION FOR SEVERANCE, MOTION FOR AN ORDER REQUIRING THE GOVERNMENT TO PROVIDE BRADY MATERIAL, MOTION FOR AN ORDER REQUIRING THE GOVERNMENT TO PROVIDE JENCKS MATERIAL AND MOTION FOR BILL OF PARTICULARS. DEFENDANT KASSEM ALAQUIE'S MOTION FOR SEVERANCE DOCUMENT # 82 IS DENIED AND DEFENDANT SETH T. GARDNER'S MOTION FOR SEVERANCE DOCUMENT # 72 IS GRANTED. (SIGNED BY JUDGE LOUIS H. POLLAK), 8/6/96 ENTERED AND COPIES MAILED. (lb) (Entered: 08/06/1996)
08/13/1996	106	Trial Brief by USA as to HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAQUIE, KARAM SALIB. Cert. of Service. (lb) (Entered: 08/13/1996)
08/13/1996	107	Voir Dire Questions by USA as to HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN and KASSEM ALAQUIE. Cert. of Service. (lb) (Entered: 08/13/1996)

08/13/1996	108	Proposed Jury Instructions by USA as to HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN and KASSEM ALAQOUIE. Cert. of Service. (lb) (Entered: 08/13/1996)
08/13/1996	109	MOTION BY USA AS TO HITHAM ABUHOURAN, ETAL., IN LIMINE TO BAR REFERENCE AT TRIAL TO POTENTIAL PUNISHMENTS , MEMORANDUM, CERT. OF SERVICE. (lb) Modified on 08/14/1996 (Entered: 08/14/1996)
08/13/1996	110	MOTION BY USA AS TO HITHAM ABUHOURAN, ETAL., TO ADMIT TAX RETURNS AND RETURN INFORMATION , MEMORANDUM, CERT. OF SERVICE. (lb) (Entered: 08/14/1996)
08/27/1996	112	ORDER DATED 8/26/96 AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN AND KASSEM ALAQOUIE THAT THE ORAL ARGUMENT ON ALL OUTSTANDING MOTIONS SCHEDULED FOR 9/4/96 AT 11:00 A.M., HAS BEEN RESCHEDULED TO 9/3/96 AT 11:00 A.M., IT IS FURTHER ORDERED THAT RESPONSES TO OUTSTANDING MOTIONS, TRIAL BRIEFS, ETC., SHALL BE FILED BY 8/28/96. (SIGNED BY JUDGE LOUIS H. POLLAK), 8/27/96 ENTERED AND COPIES MAILED AND FAXED BY COURTROOM DEPUTY. (lb) (Entered: 08/27/1996)
08/27/1996	113	ORDER DATED 8/26/96 AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN AND KASSEM ALAQOUIE THAT ORAL ARGUMENT ON ALL OUTSTANDING MOTIONS WILL BE HELD ON 9/4/96 AT 11:00 A.M., WITH CONDITIONS. (SIGNED BY LOUIS H. POLLAK), 8/27/96 ENTERED AND COPIES MAILED AND FAXED BY COURTROOM DEPUTY. (lb) (Entered: 08/27/1996)
08/28/1996	115	ORDER DATED 8/28/96 AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN AND KASSEM ALAQOUIE THAT THE ORAL ARGUMENT ON ALL OUTSTANDING MOTIONS SCHEDULED FOR 9/3/96 AT 11:00 A.M., IS CHANGED TO 2:15 P.M., WITH CONDITIONS. (SIGNED BY LOUIS H. POLLAK), 8/29/96 ENTERED AND COPIES MAILED AND FAXED BY COURTROOM DEPUTY. (lb) (Entered: 08/29/1996)
08/30/1996	121	Response by AKTHAM ABUHOURAN to Government's requested jury instructions. (ar) (Entered: 08/30/1996)
08/30/1996	122	Proposed Voir Dire Questions by AKTHAM ABUHOURAN, Certificate of Service. (ar) (Entered: 08/30/1996)
08/30/1996	123	REQUEST BY AKTHAM ABUHOURAN FOR SUPPLEMENTAL JURY INSTRUCTIONS , CERTIFICATE OF SERVICE. (ar) Modified on 08/30/1996 (Entered: 08/30/1996)
08/30/1996	124	Response by AKTHAM ABUHOURAN in partial opposition to MOTION TO ADMIT TAX RETURNS AND RETURN

		INFORMATION, Certificate of Service. (ar) (Entered: 08/30/1996)
08/30/1996	125	Response by AKTHAM ABUHOURAN to MOTION TO ADMIT EVIDENCE OF EXTRINSIC ACTS, Certificate of Service. (ar) (Entered: 08/30/1996)
08/30/1996	126	Response by AKTHAM ABUHOURAN to [102-1] MOTION TO ADMIT EVIDENCE OF EXTRINSIC ACTS. Cert. of Service. (lb) (Entered: 08/30/1996)
08/30/1996	127	Response by AKTHAM ABUHOURAN to [110-1] MOTION TO ADMIT TAX RETURNS AND RETURN INFORMATION. Cert. of Service. (lb) (Entered: 08/30/1996)
08/30/1996	128	Defendant AKTHAM ABUHOURAN'S request for supplemental jury instructions. Cert. of Service. (lb) (Entered: 08/30/1996)
08/30/1996	129	Proposed Voir Dire Questions by AKTHAM ABUHOURAN, Cert. of service. (lb) (Entered: 08/30/1996)
08/30/1996	130	Response by AKTHAM ABUHOURAN [108-1] government's requested instructions jury, Cert. of Service. (lb) (Entered: 08/30/1996)
09/04/1996	132	MOTION BY AKTHAM ABUHOURAN, TO BAR STATEMENTS OF COUNSEL AND DEFENDANT , CERT. OF SERVICE. (lb) (Entered: 09/04/1996)
09/04/1996	134	Proposed Jury Instructions by USA as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, regarding forfeiture, Cert. of Service. (lb) (Entered: 09/04/1996)
09/04/1996	135	Trial Brief Regarding Forfeiture by USA as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, Cert. of Service. (lb) (Entered: 09/04/1996)
09/05/1996	138	Minute entry as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAOUIE dated 9/3/96 re: Oral Argument/Conference. Argued Sur: Outstanding motions. Govt's Motion to Reconsider Dismissal of Count 26 as to Deft. Adma Abuhouran - Granted. Govt's Motion in Limine to bar reference at trial to potential punishments - Granted. (jh) (Entered: 09/06/1996)
09/05/1996	139	Minute entry as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAOUIE dated 9/4/96 re: Oral Argument/Conference. Argued sur: Outstanding motions. Motion of Deft. Hitham Abuhouran for a waiver of trial by Jury, which was joined by all remaining defts -DENIED. Motion of Deft. Hitham Abuhouran to sequester the Jury - DENIED. (jh) (Entered: 09/06/1996)
09/05/1996	140	ORDER DATED 9/5/96 THAT THE MOTION OF GOVT. TO RECONSIDER DISMISSAL OF COUNT 26 AS TO DEFT. ADMA

		ABUHOURAN IS GRANTED. UPON RECONSIDERATION OF DEFT. ADMA ABUHOURAN'S MOTION TO DISMISS COUNT 26, THE EARLIER ORDER AS TO THAT MOTION IS VACATED AND THE MOTION TO DISMISS IS DENIED. THE GOVT'S MOTION IN LIMINE TO BAR REFERENCE AT TRIAL TO POTENTIAL PUNISHMENTS IS GRANTED. DEFT. HITHAM ABUHOURAN'S MOTION FOR A WAIVER OF TRIAL BY JURY, WHICH WAS JOINED BY CO-DEFTS. IS DENIED. DEFT. HITHAM ABUHOURAN'S MOTION TO SEQUESTER THE JURY IS DENIED. (SIGNED BY JUDGE LOUIS H. POLLAK), 9/6/96 ENTERED AND COPIES MAILED BY CHAMBERS. (jh) (Entered: 09/06/1996)
09/09/1996	142	ORDER OF CONTINUANCE AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAQUIE THAT CASE IS CONTINUED UNTIL SEPTEMBER 10, 1996, IN ACCORDANCE WITH 18:U.S.C. 3161 (h)(8), ETC. (SIGNED BY JUDGE LOUIS H. POLLAK), 09/10/96 ENTERED AND COPIES/FAXED. MAILED. (ar) (Entered: 09/10/1996)
09/10/1996	143	ORDER DATED 9/9/96 AS TO HITHAM ABUHOURAN, ETAL., GRANTING IN PART, DENYING IN PART [110-1] MOTION TO ADMIT TAX RETURNS AND RETURN INFORMATION AND GRANTING IN PART, DENYING IN PART [102-1] MOTION TO ADMIT EVIDENCE OF EXTRINSIC ACTS. (SIGNED BY JUDGE LOUIS H. POLLAK), 9/11/96 ENTERED AND COPIES MAILED AND FAXED BY COURTROOM DEPUTY. (lb) (Entered: 09/11/1996)
09/11/1996	148	ORDER DATED 9/10/96 THAT PURSUANT TO 18 U.S.C. 3161(h)(8) THIS CASE AS TO ADHAM ABUHOURAN AND AKTHAM ABUHOURAN IS CONTINUED UNTIL 9/16/96 WITH THE AGREEMENT OF COUNSEL AND DEFENDANTS. (SIGNED BY JUDGE LOUIS H. POLLAK), 9/12/96 ENTERED AND COPIES MAILED AND FAXED. (lb) (Entered: 09/12/1996)
09/12/1996	149	MOTION BY USA AS TO AKTHAM ABUHOURAN, TO DISMISS COUNT 16 OF THE INDICTMENT , CERT. OF SERVICE. (lb) (Entered: 09/13/1996)
09/12/1996	150	ORDER DATED 9/12/96 AS TO AKTHAM ABUHOURAN GRANTING [149-1] MOTION TO DISMISS COUNT 16 OF THE INDICTMENT AS TO AKTHAM ABUHOURAN ONLY. (SIGNED BY JUDGE LOUIS H. POLLAK), 9/13/96 ENTERED AND COPIES MAILED. (lb) (Entered: 09/13/1996)
09/12/1996		Dismissal of Count(s) on Government Motion as to AKTHAM ABUHOURAN: Count Dismissed: 16. (lb) (Entered: 09/13/1996)
09/18/1996	152	Voir dire begun 9/16/96 as to ADHAM ABUHOURAN (3) count(s) 7, 8, 18, 20, 26, 27, 47, 48, 53, 54, AKTHAM ABUHOURAN (4) count(s) 5, 17, 20, 26, 27, 47, 48, 51, 54. Trial resumes. (lb) (Entered: 09/19/1996)
09/19/1996	155	Trial Minutes dated 9/17/96 as to ADHAM ABUHOURAN, AKTHAM

		ABUHOURAN. Trial resumes. (lb) (Entered: 09/20/1996)
09/19/1996	156	Trial Minutes dated 9/18/96 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN. Trial resumes. (lb) (Entered: 09/20/1996)
09/19/1996	157	Trial Minutes dated 9/19/96 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN. Trial resumes. (lb) (Entered: 09/20/1996)
09/19/1996	158	Waiver of Presence of Court Stenographer or Electronic Sound Recording Operator and Defendant(s) at Drawing of Jury Panel Members in Criminal Trials as to ADHAM ABUHOURAN and AKTHAM ABUHOURAN. (lb) (Entered: 09/20/1996)
09/23/1996	159	Trial Minutes dated 9/20/96 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN, Trial resumes. (lb) (Entered: 09/23/1996)
10/01/1996	160	Trial Minutes dated 9/24/96 as to ADHAM ABUHOURAN and AKTHAM ABUHOURAN. Trial resumes. (lb) (Entered: 10/01/1996)
10/01/1996	161	Trial Minutes dated 9/25/96 as to ADHAM ABUHOURAN and AKTHAM ABUHOURAN. Trial resumes. (lb) (Entered: 10/01/1996)
10/01/1996	162	Trial Minutes dated 9/26/96 as to ADHAM ABUHOURAN and AKTHAM ABUHOURAN. Trial resumes. (lb) (Entered: 10/01/1996)
10/01/1996	163	Trial Minutes dated 9/30/96 as to ADHAM ABUHOURAN and AKTHAM ABUHOURAN. Trial resumes. (lb) (Entered: 10/01/1996)
10/01/1996	164	ORDER DATED 9/30/96 AS TO ADHAM ABUHOURAN AND AKTHAM ABUHOURAN THAT THE CLERK OF COURT FOR THE EDPA IS DIRECTED TO FURNISH REFRESHMENTS FOR 14 JURORS ON SEPT. 25, 26 AND 30, 1996 IN THIS CASE. (SIGNED BY JUDGE LOUIS H. POLLAK), 10/1/96 ENTERED. (lb) (Entered: 10/01/1996)
10/03/1996	165	Trial Minutes dated 10/1/96 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN. Trial resumes. (lb) (Entered: 10/03/1996)
10/03/1996	166	Trial Minutes dated 10/2/96 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN. Trial resumes. (lb) (Entered: 10/03/1996)
10/08/1996	167	Trial Minutes for Criminal Jury Trial day 12 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN dated 10/03/96: Trial resumes. (ar) (Entered: 10/08/1996)
10/08/1996	168	Trial Minutes for Criminal Jury Trial date 13 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN dated 10/04/96: Trial resumes. (ar) (Entered: 10/08/1996)
10/08/1996	169	Trial Minutes for Criminal Jury Trial day 14 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN dated 10/07/96: Trial resumes. (ar) (Entered: 10/08/1996)
10/08/1996	170	ORDER DATED 10/07/96, AS TO ADHAM ABUHOURAN, AKTHAM ABUHOURAN THAT THE CLERK OF COURT FOR THE

		EASTERN DISTRICT OF PENNSYLVANIA BE AND IS HEREBY DIRECTED TO FURNISH REFRESHMENTS FOR 14 JURORS ON OCTOBER 1,2,3, & 4, 1996, etc. (SIGNED BY JUDGE LOUIS H. POLLAK), 10/08/96 ENTERED AND COPIES SENT BY CHAMBERS. (ar) (Entered: 10/08/1996)
10/09/1996	171	Trial Minutes for Criminal Jury Trial Day 15 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN dated 10/08/96: Trial resumes. (ar) (Entered: 10/10/1996)
10/10/1996	172	ORDER DATED 10/10/96, AS TO ADHAM ABUHOURAN, AKTHAM ABUHOURAN THAT THE CLERK OF COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA FURNISH REFRESHMENTS FOR 14 JURORS ON OCTOBER 7,8,9, AND 10, 1996.(SIGNED BY JUDGE LOUIS H. POLLAK), 10/11/96 ENTERED AND COPIES SENT TO FISCAL BY CHAMBERS. (ar) (Entered: 10/11/1996)
10/10/1996	173	Trial Minutes for Criminal Jury Trial Day 16 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN dated 10/09/96: Trial resumes. (ar) (Entered: 10/11/1996)
10/10/1996	174	Trial Minutes for Criminal Jury Trial day 17 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN dated 10/10/96: Trial resumes. (ar) (Entered: 10/11/1996)
10/17/1996	175	ORDER DATED 10/17/96, AS TO ADHAM ABUHOURAN, AKTHAM ABUHOURAN THAT THE CLERK OF COURT FURNISH REFRESHMENTS FOR 14 JURORS ON OCTOBER 15, 16, AND 17, 1996. (SIGNED BY JUDGE LOUIS H. POLLAK), 10/17/96 ENTERED AND COPIES SENT BY CHAMBERS. (ar) (Entered: 10/17/1996)
10/17/1996	176	Trial Minutes dated 10/15/96 as to ADHAM ABUHOURAN and AKTHAM ABUHOURAN. Trial resumes. (lb) (Entered: 10/17/1996)
10/17/1996	177	Trial Minutes 10/16/96 as to ADHAM ABUHOURAN and AKTHAM ABUHOURAN. Trial resumes. (lb) (Entered: 10/17/1996)
10/22/1996	178	Trial Minutes of 10/17/96 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN. (jh) (Entered: 10/23/1996)
10/22/1996	179	Trial Minutes of 10/21/96 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN. (jh) (Entered: 10/23/1996)
10/25/1996	180	ORDER DATED 10/25/96, AS TO ADHAM ABUHOURAN, AKTHAM ABUHOURAN THAT THE CLERK OF COURT FOR THE EDPA FURNISH REFRESHMENTS FOR 14 JURORS ON OCTOBER 21,22,23,24,25. (SIGNED BY JUDGE LOUIS H. POLLAK), 10/28/96 ENTERED AND COPIES SENT BY CHAMBERS. (ar) (Entered: 10/28/1996)
10/25/1996	181	ORDER DATED 10/25/96, AS TO ADHAM ABUHOURAN, AKTHAM ABUHOURAN THAT THE CLERK OF COURT IS

		HEREBY DIRECTED TO FURNISH LUNCH FOR 14 JURORS AND ONE DEPUTY CLERK ON OCTOBER 23,24,25, 1996. (SIGNED BY JUDGE LOUIS H. POLLAK), 10/28/96 ENTERED AND COPIES SENT BY CHAMBERS. (ar) (Entered: 10/28/1996)
10/25/1996	182	Trial Minutes of 10/22/96 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN. (jh) (Entered: 10/28/1996)
10/25/1996	183	Trial Minutes of 10/23/96 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN. (jh) (Entered: 10/28/1996)
10/25/1996	184	Trial Minutes of 10/24/96 as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN. (jh) (Entered: 10/28/1996)
10/28/1996	185	Trial Minutes Day (25) as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN dated 10/25/96: Trial resumes. Deliberations to resume on Monday, 10/28/96. (ar) (Entered: 10/28/1996)
10/30/1996	187	Jury Verdict dated 10/29/96 as to AKTHAM ABUHOURAN GUILTY: AKTHAM ABUHOURAN (4) count(s) 5, 20, 26, 27, 47, 48, 54 and NOT GUILTY: count 17 . PSI Ordered. Sentencing date to be set. (lb) (Entered: 10/30/1996)
10/30/1996	188	Jury Verdict Sheet as to ADHAM ABUHOURAN and AKTHAM ABUHOURAN. (lb) (Entered: 10/30/1996)
10/31/1996	189	Trial Minutes as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN dated 10/28/96: Trial day (26); trial resumes. (ar) (Entered: 10/31/1996)
10/31/1996	190	JUDGMENT AKTHAM ABUHOURAN (4) count(s) 17. NOT GUILTY AS TO COUNT 17. (SIGNED BY JUDGE LOUIS H. POLLAK), 10/31/96 ENTERED AND COPIES MAILED AND FAXED. (ar) (Entered: 10/31/1996)
10/31/1996	191	ORDER DATED 10/30/96, AS TO ADHAM ABUHOURAN, AKTHAM ABUHOURAN THAT THE CLERK OF COURT IS HEREBY DIRECTED TO FURNISH LUNCH FOR 14 JURORS AND ONE DEPUTY MARSHAL ON OCTOBER 28, & 29. (SIGNED BY JUDGE LOUIS H. POLLAK), 10/31/96 ENTERED AND COPIES SENT BY CHAMBERS. (ar) (Entered: 10/31/1996)
10/31/1996	192	ORDER DATED 10/30/96, AS TO ADHAM ABUHOURAN, AKTHAM ABUHOURAN THAT THE CLERK OF COURT IS HEREBY DIRECTED TO FURNISH REFRESHMENTS FOR 14 JURORS ON OCTOBER 28 & 29, 1996.(SIGNED BY JUDGE LOUIS H. POLLAK), 10/31/96 ENTERED AND COPIES SENT BY CHAMBERS. (ar) (Entered: 10/31/1996)
11/05/1996	195	MOTION BY AKTHAM ABUHOURAN FOR NEW TRIAL AND/OR ARREST OF JUDGMENT , CERTIFICATE OF SERVICE. (ar) (Entered: 11/06/1996)
11/13/1996	196	ORDER DATED 11/13/96 AS TO ADHAM ABUHOURAN, AKTHAM

		ABUHOURAN THAT THE BAIL CONDITIONS PREVIOUSLY SET ARE MODIFIED AS FOLLOWS: THE ABOVE NAMED DEFTS SHALL REPORT TO PRETRIAL ONCE A WEEK IN PERSON AND EVERY OTHER DAY BY PHONE; DEFT ADHAM ABUHOURAN SHALL BE REQUIRED TO POST CASH BOND OF \$100,000/5% NO LATER THAN 11/12/96; ALL OTHER BAIL CONDITIONS PREVIOUSLY SET, TO THE EXTENT THEY DO NOT CONFLICT WITH THE CONDITIONS STATED ABOVE, SHALL REMAIN IN EFFECT. (SIGNED BY JUDGE LOUIS H. POLLAK) 11/14/96 ENTERED AND COPIES MAILED BY CHAMBERS 11/13. (cmc) (Entered: 11/14/1996)
11/26/1996	197	ORDER DATED 11/25/96, AS TO ADHAM ABUHOURAN, AKTHAM ABUHOURAN THAT THE DEFENDANTS SHALL SUPPLEMENT THEIR POST-TRIAL MOTIONS AND FILE A MEMORANDUM OF LAW IN SUPPORT OF ALL THEIR POST-TRIAL MOTIONS NO LATER THAN MONDAY, DECEMBER 9, 1996. THE GOVERNMENT SHALL FLE A RESPONSE TO ALL POST-TRIAL MOTIONS NO LATER THAN MONDAY, DECMEBER 23, 1996. (SIGNED BY JUDGE LOUIS H. POLLAK), 11/26/96 ENTERED AND COPIES MAILED AND FAXED. (ar) (Entered: 11/26/1996)
12/03/1996	201	MOTION BY USA AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAQUIE, KARAM SALIB SEALED MOTION (ar) (Entered: 12/05/1996)
12/05/1996	198	ORDER DATED 12/05/96, AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM KARAM SALIB (SEALED AND IMPOUNDED)(SIGNED BY JUDGE LOUIS H. POLLAK), 12/05/96 ENTERED AND COPIES MAILED. (ar) (Entered: 12/05/1996)
12/05/1996	199	MOTION AND ORDER DATED 12/05/96, AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM KARAM SALIB THAT THE EX PARTE MOTION TO DELAY DISCLOSURE PURSUANT TO THE RIGHT TO FINANCIAL PRIVACY ACT AND ALL RELATED PAPERS AND DOCKET ENTRIES ARE IMPOUNDED UNTIL FURTHER ORDER OF THIS COURT. (SIGNED BY JUDGE LOUIS H. POLLAK), 12/05/96 ENTERED AND COPIES MAILED. (ar) Modified on 12/05/1996 (Entered: 12/05/1996)
12/05/1996	200	ORDER TO SEAL (DOCUMENTS 198, 199, 200,201) DATED 12/05/96, AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM KARAM SALIB (SIGNED BY JUDGE LOUIS H. POLLAK), 12/05/96 ENTERED AND COPIES MAILED. (ar) Modified on 12/05/1996 (Entered: 12/05/1996)

12/09/1996	204	MOTION BY AKTHAM ABUHOURAN FOR NEW TRIAL , AND/OR ARREST OF JUDGMENT , CERTIFICATE OF SERVICE. (ar) (Entered: 12/10/1996)
12/09/1996	205	Memorandum of Law by AKTHAM ABUHOURAN in support of MOTION FOR NEW TRIAL, AND/OR MOTION ARREST OF JUDGMENT, Certificate of Service. (ar) (Entered: 12/10/1996)
12/19/1996	206	Consolidated Response by USA as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN re: [204-1] MOTION FOR NEW TRIAL, [204-2] MOTION ARREST OF JUDGMENT, [202-1] MOTION FOR JUDGMENT OF ACQUITTAL, [202-2] MOTION FOR NEW TRIAL, Memorandum, Cert. of Service. (jh) (Entered: 12/20/1996)
12/19/1996	207	MOTION BY USA SEALED MOTION . (jh) (Entered: 12/20/1996)
12/19/1996	208	ORDER DATED 12/19/96 GRANTING [207-1] SEALED MOTION. (SEALED AND IMPOUNDED) (SIGNED BY JUDGE LOUIS H. POLLAK), 12/20/96 ENTERED. (jh) (Entered: 12/20/1996)
12/19/1996	209	MOTION AND ORDER TO SEAL DOCUMENT # 207. (SIGNED BY JUDGE LOUIS H. POLLAK), 12/20/96 ENTERED. (jh) (Entered: 12/20/1996)
12/19/1996	210	ORDER TO SEAL DOCUMENTS # 207, # 208 & #209. (SIGNED BY JUDGE LOUIS H. POLLAK), 12/20/96 ENTERED. (jh) (Entered: 12/20/1996)
01/17/1997	215	Notice of hearing on motion rescheduled for Wednesday, February 12, 1997, at 9:30 A.M. as to AKTHAM ABUHOURAN. (ar) (Entered: 01/21/1997)
01/30/1997	219	Notice as to AKTHAM ABUHOURAN that the hearing on motion has been rescheduled for Wednesday, February 26, 1997, at 9:00 A.M. before Judge Louis H. Pollak. (ar) (Entered: 01/31/1997)
02/14/1997	223	MOTION BY USA AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN SEALED MOTION (ar) (Entered: 02/18/1997)
02/18/1997	220	Transcript of Excerpt of Jury Trial filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for date of 10/25/96. (ar) (Entered: 02/18/1997)
02/18/1997	221	Transcript of excerpt of jury trial filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for date of 09/18/96. (ar) (Entered: 02/18/1997)
02/18/1997	222	Transcript of excerpt of jury trial filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for date of 10/28/96. (ar) (Entered: 02/18/1997)
02/18/1997	224	MEMORANDUM AND ORDER TO SEAL AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN

		(SIGNED BY JUDGE LOUIS H. POLLAK), 02/18/97 ENTERED AND COPIES GIVEN. (ar) (Entered: 02/18/1997)
02/19/1997		Sealed Document as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN. (See Paper No. 224) (ar) (Entered: 02/19/1997)
02/26/1997	226	Transcript of Jury Trial filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for date of 10/15/96. (ar) (Entered: 02/26/1997)
02/27/1997	227	Minute entry as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN dated 02/26/97: Post-Trial Hearing; Witnesses called and sworn. Motion to set aside verdict and grant a new trial is denied. An order will follow. (ar) (Entered: 02/27/1997)
03/03/1997	228	MOTION BY USA AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM ALAOUIE, KARAM SALIB SEALED MOTION (ar) (Entered: 03/03/1997)
03/03/1997	229	ORDER AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM KARAM SALIB GRANTING [228-1] MOTION SEALED MOTION. (SIGNED BY JUDGE LOUIS H. POLLAK), 03/03/97 ENTERED. (ar) (Entered: 03/03/1997)
03/03/1997	230	MOTION AND ORDER AND ORDER TO SEAL AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM KARAM SALIB (SIGNED BY JUDGE LOUIS H. POLLAK), 03/03/97 ENTERED. (ar) (Entered: 03/03/1997)
03/03/1997	231	ORDER DATED 03/03/97, AS TO ADHAM ABUHOURAN, AKTHAM ABUHOURAN DENYING [204-1] MOTION FOR NEW TRIAL AND/OR MOTION ARREST OF JUDGMENT AS TO AKTHAM ABUHOURAN AND DENYING [202-1] MOTION FOR JUDGMENT OF ACQUITTAL AND/OR MOTION FOR NEW TRIAL AS TO ADHAM ABUHOURAN (3) (SIGNED BY JUDGE LOUIS H. POLLAK), 03/04/97 ENTERED AND COPIES MAILED AND FAXED. (ar) (Entered: 03/04/1997)
03/13/1997	239	ORDER DATED 03/12/97, AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM KARAM SALIB (SIGNED BY JUDGE LOUIS H. POLLAK), 03/14/97 ENTERED AND COPIES MAILED (SEALED AND IMPOUNDED).. (ar) (Entered: 03/14/1997)
03/13/1997	240	ORDER DATED 03/13/97, AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM KARAM SALIB (SIGNED BY JUDGE LOUIS H. POLLAK), 03/14/97 ENTERED AND COPIES MAILED. (SEALED AND IMPOUNDED. (ar) (Entered: 03/14/1997)

03/13/1997	241	ORDER TO SEAL (Documents 239 and 240) AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, ADMA ABUHOURAN, KASSEM KARAM SALIB (SIGNED BY JUDGE LOUIS H. POLLAK), 03/14/97 ENTERED. (ar) (Entered: 03/14/1997)
03/18/1997	244	CONSENT ORDER DATED 3/14/97 AS TO AKTHAM ABUHOURAN PER REQUEST LETTER TO JUDGE POLLAK, THAT DEFT IS PERMITTED TO TRAVEL OUTSIDE THE DISTRICT FROM NEWARK, NJ TO WASHINGTON, DC FROM 3/19/97 TO 3/21/97 TO ATTEND A RECEPTION. (SIGNED BY JUDGE LOUIS H. POLLAK) 3/19/97 ENTERED AND COPIES MAILED AND FAXED. (cmc) (Entered: 03/19/1997)
04/08/1997	250	Notice as to AKTHAM ABUHOURAN that sentencing has been set for June 5, 1997, at 11:30 A.M. before Judge Louis H. Pollak, etc. (ar) (Entered: 04/08/1997)
04/08/1997		Deadline updated as to HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, KASSEM ALAOUIE, KARAM SALIB, SET SENTENCING FOR 10:00 6/4/97 for HITHAM ABUHOURAN, 9:30 6/30/97 for SETH T. GARDNER, 9:30 6/5/97 for ADHAM ABUHOURAN, for AKTHAM ABUHOURAN, 10:00 5/6/97 for KASSEM ALAOUIE, 10:00 5/5/97 for KARAM SALIB (ar) (Entered: 04/08/1997)
05/02/1997	255	Supplemental Memorandum by USA as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN in support of Government's Motion for Revocation of Bail, Certificate of Service. (ar) (Entered: 05/05/1997)
05/05/1997	260	ARREST Warrant Returned Executed as to AKTHAM ABUHOURAN on 5/2/97 . (cmc) (Entered: 05/05/1997)
05/07/1997	261	Minute entry as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN dated 5/2/97 re: Telephone conference- Court schedules hearing for 5/6/97 3:00 p.m. to discuss bail revocation proceedings. (cmc) (Entered: 05/07/1997)
05/07/1997	262	Minute entry as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN dated 5/6/97 re: Bail revocation hearing- Court schedules hearings for 5/12/97 9:30 a.m. (cmc) (Entered: 05/07/1997)
05/07/1997	265	Notice dated 5/6/97 by USA as to AKTHAM ABUHOURAN that a bail revocation hearing is set for 5/12/97 at 9:30 a.m., before Judge Pollak. (lb) (Entered: 05/08/1997)
05/08/1997	266	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/22/96. (jh) (Entered: 05/09/1997)
05/09/1997	268	MOTION BY USA AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN TO ADMIT TAX

RETURNS AND RETURN INFORMATION , CERTIFICATE OF SERVICE. (ar) (Entered: 05/12/1997)		
05/13/1997	271	Minute entry as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN dated 05/12/97: Hearing re: Government's Motion for Revocation of Bail. (ar) (Entered: 05/14/1997)
05/15/1997	273	Minute entry as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN dated 05/13/97: Hearing re: Government's motion for revocation of bail. (ar) (Entered: 05/16/1997)
05/15/1997	274	Minute entry as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN dated 05/14/97: Hearing re: Government's motion for revocation of bail. Ruling: Court orders taht bail as previously set for Hitham Aubhouran is revoked and he will be detained pending sentencing, etc. (ar) (Entered: 05/16/1997)
05/15/1997	275	ORDER DATED 05/15/97, AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN THAT BAIL PREVIOUSLY SET FOR HITHAM ABUHOURAN IS REVOKED AND HE WILL BE DETAINED PENDING SENTENCING, ETC. (SIGNED BY JUDGE LOUIS H. POLLAK), 05/16/97 ENTERED AND COPIES SENT BY CHAMBERS. (ar) (Entered: 05/16/1997)
05/22/1997	279	Answer by AKTHAM ABUHOURAN to Govt's Ex Parte Motion for Revocation of Bail, Memorandum, Cert. of Service. (jh) (Entered: 05/22/1997)
06/03/1997	285	Amended Notice by USA as to AKTHAM ABUHOURAN that sentencing is set for 7/1/97 at 1:30 p.m., before Judge Pollak. (lb) (Entered: 06/04/1997)
06/03/1997	286	ORDER DATED 6/3/97 AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN AND AKTHAM ABUHOURAN THAT ALL OBJECTIONS TO THE PRESENTENCE SHALL BE SUBMITTED BY THE PARTIES TO THE PROBATION OFFICE NO LATER THAN 6/10/97 WITH CONDITIONS. THE GOVERNMENT SHALL FIEL IT SENTENCING MEMORANDUM NO LATER THAN 6/23/97 WITH CONDITIONS. SENTENCING OF STEVE ABUHOURAN IS SCHEDULED FOR 6/26/97 AT 10:00 A.M., ADAM ABUHOURAN ON 7/1/97 AT 9:30 A.M., AND TONY ABUHOURAN ON 7/1/97 AT 1:30 P.M. (SIGNED BY JUDGE LOUIS H. POLLAK), 6/4/97 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (lb) (Entered: 06/04/1997)
06/10/1997	287	ORDER DATED 06/09/97, AS TO ADHAM ABUHOURAN, AKTHAM ABUHOURAN THAT THE DEFENDANTS INCUR THE COST OF THE ELECTRONIC MONITORING IMPOSED BY THIS COURT'S ORDER OF MAY 15, 1997, ETC.(SIGNED BY JUDGE LOUIS H. POLLAK), 06/10/97 ENTERED AND COPIES SENT BY CHAMBERS. (ar) (Entered: 06/10/1997)
06/18/1997	292	MOTION BY USA AS TO AKTHAM ABUHOURAN FOR

		JUDGMENT AND ORDER OF FORFEITURE , CERTIFICATE OF SERVICE. (ar) (Entered: 06/18/1997)
06/19/1997	293	Sentencing Memorandum by USA as to HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN, Certificate of Service. (ar) (Entered: 06/19/1997)
06/20/1997	294	ORDER DATED 06/18/97, AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN THAT THE CLERK PREPARE A TRANSCRIPT OF THE EX PARTE HEARING HELD ON MARCH 11, 1997, AND RELEASE A COPY OF THAT TRANSCRIPT TO AUSA ROBERT A. ZAUZMER, ETC. (SIGNED BY JUDGE LOUIS H. POLLAK), 06/20/97 ENTERED AND COPIES SENT BY CHAMBERS. (ar) (Entered: 06/20/1997)
06/23/1997	295	Response by USA as to AKTHAM ABUHOURAN re: [280-1] MOTION TO CONTINUE SENTENCING DATE, Cert. of Service. (cmc) (Entered: 06/24/1997)
06/24/1997	297	ORDER DATED 06/23/97, AS TO HITHAM ABUHOURAN, AKTHAM ABUHOURAN THAT THE MOTION OF DEFENDANT AKTHAM ABUHOURAN FOR CONTINUANCE OF SENTENCING SHALL REMAIN UNDER SEAL, ETC. THE EMERGENCY MOTION OF DEFENDANT HITHAM ABUHOURAN, IN WHICH DEFENDANT AKTHAM ABUHOURAN JOINS THAT THE GOVERNMENT'S RESPONSE TO AKTHAM ABUHOURAN'S MOTION FOR CONTINUANCE OF SENTENCING BE FILED UNDER SEAL IS DENIED.(SIGNED BY JUDGE LOUIS H. POLLAK), 06/25/97 ENTERED AND COPIES FAXED BY CHAMBERS. (ar) (Entered: 06/25/1997)
06/25/1997	298	Response by USA as to AKTHAM ABUHOURAN re: [280-1] MOTION TO CONTINUE SENTENCING DATE, Certificate of Service. (ar) (Entered: 06/25/1997)
06/25/1997	299	Minute entry as to HITHAM ABUHOURAN, AKTHAM ABUHOURAN dated 06/23/97: Telephone Conference - Ruling: Defendant Aktham Abuhouran's motion for continuance of sentencing shall remain under seal pending a written submission of defendant's counsel regarding why the motion should remain sealed, etc. The emergency motion of Defendant Higham Abuhouran that the government's response to Aktham Abuhouran's motion for continuance of sentencing be filed under seal - denied. (ar) (Entered: 06/26/1997)
06/26/1997	301	ORDER DATED 06/25/97, AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN DENYING [300-1] MOTION TO SEAL (SIGNED BY JUDGE LOUIS H. POLLAK), 06/26/97 ENTERED AND COPIES FAXED BY CHAMBERS. (ar) (Entered: 06/26/1997)
06/26/1997	303	ORDER DATED 06/25/97, AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN THAT MOTION OF DEFENDANT STEVE HOURAN TO FILE CONFIDENTIAL

		EXHIBIT NO. 1 TO HIS MOTION FOR CONTINUANCE OF SENTENCING UNDER SEAL IS GRANTED, ETC. (SIGNED BY JUDGE LOUIS H. POLLAK), 06/26/97 ENTERED AND COPIES FAXED BY CHAMBERS.. (ar) (Entered: 06/26/1997)
06/26/1997	306	Minute entry as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN dated 06/25/97: Judge grants motion for continuance of sentencing. (ar) (Entered: 06/27/1997)
06/27/1997	308	ORDER DATED 06/26/97, AS TO HITHAM ABUHOURAN, SETH T. GARDNER, ADHAM ABUHOURAN, AKTHAM ABUHOURAN THAT THE SENTENCING HEARING PREVIOUSLY SCHEDULED IN THIS MATTER BE CONTINUED, ETC. (SIGNED BY JUDGE LOUIS H. POLLAK), 06/27/97 ENTERED COPIES MAILED AND FAXED BY CHAMBERS. (ar) (Entered: 06/27/1997)
07/02/1997	313	Notice as to AKTHAM ABUHOURAN that case has been set for sentencing on Wednesday, August 2, 1997, at 1:30 P.M. before Judge Louis H. Pollak, etc. (ar) (Entered: 07/02/1997)
07/02/1997		Deadline updated as to AKTHAM ABUHOURAN, SET SENTENCING FOR 1:30 8/20/97 for AKTHAM ABUHOURAN (ar) (Entered: 07/02/1997)
07/17/1997	314	ORDER DATED 07/15/97 AS TO HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN THAT THE MOTION OF DEFENDANTS FOR THE HEARING ON THEIR MOTIONS TO CONTINUED SENTENCING TO BE HELD IN CAMERA IS DENIED. (SIGNED BY JUDGE LOUIS H. POLLAK), 07/18/97 ENTERED AND COPIES FAXED BY CHAMBERS. (ar) (Entered: 07/18/1997)
08/15/1997	320	Sentencing Memorandum by AKTHAM ABUHOURAN, Certificate of Service. (ar) (Entered: 08/15/1997)
08/15/1997	321	ORDER DATED 08/15/97, AS TO ADHAM ABUHOURAN, AKTHAM ABUHOURAN THAT A BENCH WARRANT ISSUE FORTHWITH FOR THE ARREST OF DEFENDANT, ETC.(SIGNED BY JUDGE LOUIS H. POLLAK), 08/15/97 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (ar) (Entered: 08/15/1997)
08/15/1997		ARREST Warrant issued as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN. (ar) (Entered: 08/15/1997)
08/15/1997	323	EX PARTE MOTION BY USA AS TO ADHAM ABUHOURAN, AKTHAM ABUHOURAN FOR REVOCATION OF BAIL , CERTIFICATE OF SERVICE. (ar) (Entered: 08/15/1997)
08/18/1997	326	Supplemental Sentencing Memorandum by USA as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN, Certificate of Service. (ar) (Entered: 08/18/1997)
08/20/1997	331	Minute entry as to AKTHAM ABUHOURAN dated 08/19/97: Sentencing continued until Thursday, August 21, 1997, at 2:00 P.M. (ar) (Entered: 08/21/1997)

08/22/1997	332	JUDGMENT AND ORDER OF FORFEITURE DATED 08/22/97, AS TO AKTHAM ABUHOURAN IN FAVOR OF THE UNITED STATES OF AMERICA AND AGAINST DEFENDANT AKTHAM ABUHOURAN, ETC. (SIGNED BY JUDGE LOUIS H. POLLAK), 08/25/97 ENTERED AND COPIES MAILED. (ar) (Entered: 08/25/1997)
08/22/1997		Sentencing HELD AKTHAM ABUHOURAN (4) count(s) 5, 20, 26, 27, 47, 48, 54 (ar) (Entered: 08/28/1997)
08/26/1997	337	Notice of Appeal by Filing Fee \$ 105 copies to JUDGE LOUIS H. POLLAK , Clerk USCA, Appeals Clerk, and ROBERT A. ZAUZMER, AKTHAM ABUHOURAN. (ar) (Entered: 08/28/1997)
08/26/1997	338	Copy of Clerk's notice to USCA as to AKTHAM ABUHOURAN re: [337-1] appeal. (ar) (Entered: 08/28/1997)
08/28/1997	341	Minute entry as to AKTHAM ABUHOURAN dated 08/21/97: Sentencing continued until Friday, August 22, 1997, at 9:30 A.M. (ar) (Entered: 08/28/1997)
08/28/1997	342	Minute entry as to AKTHAM ABUHOURAN dated 08/22/97: Sentencing - on counts 5,20,26,27,47,48,54 - imprisonment for a term of 109 months to run concurrently; Supervised release for a period of 5 years; Restitution in the amount of \$860,477.44; Mandatory special assessment of \$350 is imposed. (ar) (Entered: 08/28/1997)
08/29/1997		Certified and transmitted record on appeal to U.S. Court of Appeals as to AKTHAM ABUHOURAN. (fdc) (Entered: 08/29/1997)
08/29/1997	343	Transcript witness testimony filed in case as to AKTHAM ABUHOURAN for date of 08/21/97. (ar) (Entered: 08/29/1997)
08/29/1997	344	Transcript of witness testimony filed in case as to AKTHAM ABUHOURAN for date of 08/22/97. (ar) (Entered: 08/29/1997)
08/29/1997	345	Rule 40 Documents as to AKTHAM ABUHOURAN received from EASTERN DISTRICT NEW YORK #97-M-1212 (RE: Violation Supv'd Release) (cmc) (Entered: 08/29/1997)
08/29/1997		Notice of Docketing ROA from USCA as to AKTHAM ABUHOURAN Re: [337-1] appeal USCA Number: 97-1668 (ar) (Entered: 08/29/1997)
09/03/1997	349	JUDGMENT AKTHAM ABUHOURAN (4) count(s) 5, 16 , 17 , 20 , 26 , 27 , 47 , 48 , 51 , 54 . IMPRISONMENT FOR A TERM OF 109 MONTHS TO RUN CONCURRENTLY; SUPERVISED RELEASE OF 5 YEARS; ASSESSMENT OF \$350.00; RESTITUTION OF 1,860,477.44. (SIGNED BY JUDGE LOUIS H. POLLAK), 09/05/97 ENTERED. (ar) (Entered: 09/05/1997)
10/06/1997	358	Judgment Returned Executed as to AKTHAM ABUHOURAN ; on 09/10/97. (ar) (Entered: 10/06/1997)
10/23/1997	360	Certification of Bridge View Bank in Response to Order of Forfeiture as

		to AKTHAM ABUHOURAN (ar) (Entered: 10/23/1997)
12/16/1997	368	Certified Copy of Order Received from U.S. Court of Appeals that the CJA Form 23 financial affidavit from appellant pro se, AKTHAM ABUHOURAN, treated as a motion for appointment of counsel under the provisions of the CJA act is Granted. (jh) (Entered: 12/17/1997)
01/29/1998	370	Transcript filed in case as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 5/14/97 [337-1] appeal, [333-1] appeal. (rp) (Entered: 01/30/1998)
01/29/1998	371	Transcript filed in case as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 5/13/97 [337-1] appeal, [333-1] appeal. (rp) (Entered: 01/30/1998)
01/29/1998	372	Transcript filed in case as to HITHAM ABUHOURAN, ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 5/12/97 [337-1] appeal, [333-1] appeal. (rp) (Entered: 01/30/1998)
04/07/1998	378	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 9/19/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	379	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 9/20/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	380	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 9/24/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	381	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 9/25/98 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	382	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 9/26/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	383	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 9/30/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	384	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/1/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	385	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/2/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	386	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/3/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)

04/07/1998	387	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/4/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	388	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/7/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	389	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/8/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	390	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/9/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	391	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/10/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	392	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/15/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	393	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/16/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	394	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/17/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	395	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/21/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	396	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/22/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	397	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/24/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	398	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/25/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	399	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/28/96 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	400	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 10/29/96 [337-1] appeal, [333-1] appeal.

		(gn) (Entered: 04/08/1998)
04/07/1998	401	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 2/26/97 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/07/1998	402	Transcript filed in case as to ADHAM ABUHOURAN, AKTHAM ABUHOURAN for dates of 8/22/97 [337-1] appeal, [333-1] appeal. (gn) (Entered: 04/08/1998)
04/27/1998		Original record on appeal as to AKTHAM ABUHOURAN returned from USCA (not needed). (cmc) (Entered: 04/27/1998)
04/29/1998	403	Copy of TPO form in appeal as to AKTHAM ABUHOURAN [337-1] appeal (ar) (Entered: 04/30/1998)
04/30/1998		RECORD COMPLETE FOR PURPOSES OF APPEAL as to AKTHAM ABUHOURAN. (fdc) (Entered: 04/30/1998)
06/29/1998	404	MOTION BY AKTHAM ABUHOURAN FOR RETURN OF PROPERTY RULE 41(e), CERTIFICATE OF SERVICE. (ar) (Entered: 06/29/1998)
07/08/1998	405	Response by USA as to AKTHAM ABUHOURAN re: [404-1] MOTION FOR RETURN OF PROPERTY RULE 41(e), Certificate of Service. (ar) (Entered: 07/08/1998)
07/08/1998	406	MOTION BY USA AS TO AKTHAM ABUHOURAN FOR SUPPLEMENTAL JUDGMENT AND ORDER OF FORFEITURE , CERTIFICATE OF SERVICE. (ar) (Entered: 07/08/1998)
07/22/1998	407	Reply Brief by AKTHAM ABUHOURAN for Return of Property, Certificate of Service. (ar) (Entered: 07/22/1998)
10/15/1998	408	Letter by AKTHAM ABUHOURAN to Clerk of Court re: requesting return of bail deposit in the amount of \$5,000. (ar) (Entered: 10/15/1998)
01/04/1999	409	Certified Copy of Order Returned from USCA as to AKTHAM ABUHOURAN that the certified judgment order issued in lieu of formal mandate on December 21, 1998, be and is hereby recalled. (ar) (Entered: 01/04/1999)
01/11/1999	411	JUDGMENT OF USCA (certified copy) as to AKTHAM ABUHOURAN Re: [337-1] appeal AFFIRMING JUDGMENT OF DISTRICT COURT ENTERED 08/25/97 (ar) (Entered: 01/11/1999)
01/20/1999	412	Letter by AKTHAM ABUHOURAN to Clerk's Office re: Return of Case bail deposit of \$5,000. (ar) (Entered: 01/20/1999)
01/20/1999	413	Letter from Judge Louis H. Pollak as to AKTHAM ABUHOURAN responding to letter requesting return of \$5,000 posted as bail. (ar) (Entered: 01/20/1999)
01/28/1999	414	MOTION BY AKTHAM ABUHOURAN TO RETURN BAIL DEPOSIT , CERTIFICATE OF SERVICE. (ar) (Entered: 01/28/1999)

02/05/1999	415	MOTION BY USA AS TO AKTHAM ABUHOURAN TO PAY RESTITUTION WITH BAIL MONEY , CERTIFICATE OF SERVICE. (ar) (Entered: 02/05/1999)
02/05/1999	416	Response by USA as to AKTHAM ABUHOURAN re: [414-1] MOTION TO RETURN BAIL DEPOSIT, Certificate of Service. (ar) (Entered: 02/05/1999)
02/08/1999	417	JUDGMENT OF USCA (certified copy) as to AKTHAM ABUHOURAN Re: AFFIRMING JUDGMENT OF THE DISTRICT COURT ENTERED AUGUST 25, 1997 (ar) (Entered: 02/09/1999)
02/22/1999	418	Reply by AKTHAM ABUHOURAN to Government's Opposition to MOTION TO RETURN BAIL MONEY, Certificate of Service. (ar) (Entered: 02/22/1999)
08/05/1999	419	Letter by AKTHAM ABUHOURAN re: Notice of Change of Address. (ar) (Entered: 08/05/1999)
08/19/1999	420	PRO-SE MOTION by AKTHAM ABUHOURAN TO REQUEST STATUS OF CASE , CERTIFICATE OF SERVICE. (ar) (Entered: 08/19/1999)
08/19/1999	421	ORDER DATED 08/18/99, AS TO AKTHAM ABUHOURAN GRANTING [415-1] MOTION TO PAY RESTITUTION WITH BAIL MONEY (SIGNED BY JUDGE LOUIS H. POLLAK), 08/20/99 ENTERED AND COPIES MAILED AND FAXED. (ar) (Entered: 08/20/1999)
01/10/2000	424	MOTION by AKTHAM ABUHOURAN TO VACATE, SET ASIDE OR CORRECT SENTENCE PURSUANT TO 28 USC 2255 , BRIEF IN SUPPORT. (Civil Action # 00-125) (rs) (Entered: 01/10/2000)
01/11/2000	425	Response by USA as to AKTHAM ABUHOURAN re: [424-1] MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE PURSUANT TO 28 USC 2255, Memorandum, Certificate of Service. (ar) (Entered: 01/11/2000)
01/21/2000	426	PRO-SE MOTION BY AKTHAM ABUHOURAN FOR ENLARGEMENT OF TIME , CERTIFICATE OF SERVICE. (ar) (Entered: 01/21/2000)
01/27/2000	427	Reply by AKTHAM ABUHOURAN to Government's response to [424-1] MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE PURSUANT TO 28 USC 2255. (ar) (Entered: 01/27/2000)
08/11/2000	436	PRO-SE MOTION BY AKTHAM ABUHOURAN TO DISMISS INDICTMENT AND/OR MOTION TO SUPPLEMENT MOTION TO VACATE SENTENCE (ar) (Entered: 08/11/2000)
06/08/2001	443	MEMORANDUM AND ORDER DATED 06/07/01, AS TO AKTHAM ABUHOURAN DENYING [436-1] MOTION TO DISMISS INDICTMENT DENYING [436-2] MOTION TO SUPPLEMENT MOTION TO VACATE SENTENCE (SIGNED BY JUDGE LOUIS H.

		POLLAK), 06/08/01 ENTERED AND COPIES MAILED AND FAXED BY CHAMBER 06/07/01. (ar) (Entered: 06/08/2001)
07/12/2001	444	OPINION AND ORDER DATED 07/12/01, AKTHAM ABUHOURAN DENYING [424-1] MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE PURSUANT TO 28 USC 2255. (SIGNED BY JUDGE LOUIS H. POLLAK), 07/13/01 ENTERED AND COPIES MAILED AND FAXED. (ar) (Entered: 07/13/2001)
09/13/2001		PRO SE MOTION DEFENDANT AKTHAM ABUHOURAN for Certificate of Appealability, Certificate of Service. (ar) (Entered: 09/13/2001)
09/13/2001	446	Pro se Notice of Appeal by AKTHAM ABUHOURAN, Certificate of Service. copies to JUDGE LOUIS H. POLLAK , Clerk USCA, Appeals Clerk, and AKTHAM ABUHOURAN, ROBERT A. ZAUZMER (ar) (Entered: 09/13/2001)
09/13/2001	447	Copy of Clerk's notice to USCA as to AKTHAM ABUHOURAN re: [446-1] appeal. (ar) (Entered: 09/13/2001)
09/14/2001		Certified and transmitted record on appeal to U.S. Court of Appeals as to AKTHAM ABUHOURAN.(Pleadings # 96-100, 122, 129, 198-201, 207-210, 224, 228-230, 239-241, 286, 299, 412, 413, 427, 443, not included). (ke) (Entered: 09/14/2001)
09/14/2001		Notice of Docketing ROA from USCA as to AKTHAM ABUHOURAN Re: [446-1] appeal USCA Number: 01-3516 (ar) (Entered: 09/14/2001)
10/01/2001	448	Certified Copy of Order from the USCA as to AKTHAM ABUHOURAN that the matter is remanded to the District Court for the sole purpose of either issuing a certificate of appealability or stating reasons why a certificate of appealability should not issue, etc. (ar) (Entered: 10/01/2001)
10/01/2001		Record on Appeal as to AKTHAM ABUHOURAN returned from U.S. Court of Appeals: [446-1] appeal (ar) (Entered: 10/01/2001)
01/22/2002	451	PRO-SE MOTION BY HITHAM ABUHOURAN, AKTHAM ABUHOURAN TO CORRECT ORIGINAL JUDGMENT PURSUANT TO RULE 36 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE , CERTIFICATE OF SERVICE. (ar) (Entered: 01/23/2002)
02/01/2002	452	Response by USA as to HITHAM ABUHOURAN, AKTHAM ABUHOURAN re: [451-1] MOTION TO CORRECT ORIGINAL JUDGMENT PURSUANT TO RULE 36 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE, Certificate of Service. (ar) (Entered: 02/01/2002)
08/02/2002	454	Letter by AKTHAM ABUHOURAN re: transfer to new location. (ar) (Entered: 08/05/2002)
08/16/2002	455	MEMORANDUM AND ORDER DATED 08/15/02, AS TO AKTHAM

		ABUHOURAN THAT THE DEFENDANT'S REQUEST FOR A CERTIFICATE OF APPEALABILITY IS DENIED, ETC. (SIGNED BY JUDGE LOUIS H. POLLAK), 08/19/02 ENTERED AND COPIES MAILED AND FAXED. (ar) (Entered: 08/19/2002)
08/26/2002	456	Notice of Appeal by BY AKTHAM ABUHOURAN. Copies to JUDGE LOUIS H. POLLAK, Clerk USCA, Appeals Clerk, and AKTHAM ABUHOURAN, ROBERT A. ZAUZMER (dt) (Entered: 08/27/2002)
08/26/2002	457	Copy of Clerk's notice to USCA as to AKTHAM ABUHOURAN re: [456-1] appeal . (dt) (Entered: 08/27/2002)
08/28/2002		Notice of Docketing ROA from USCA as to AKTHAM ABUHOURAN Re: [456-1] appeal USCA Number: 02-3344 (ar) (Entered: 08/28/2002)
09/10/2002	458	Certified Copy of Order from USCA as to AKTHAM ABUHOURAN that the Motion for Leave to Proceed In Forma Pauperis is granted, etc. (ar) (Entered: 09/11/2002)
09/11/2002		Certified and transmitted record on appeal to U.S. Court of Appeals as to AKTHAM ABUHOURAN.(Pleadings # 122, 129, 266, 286, 299, 412, 413, 424-426, 436, 443, 448, 451, 452, 454, not included. Pleadings # 96-100, 198-201, 207-210, 223, 224, 228-230, 239-241, included and are UNDER SEAL). (ke) (Entered: 09/11/2002)
12/03/2002	462	Supplemental Response as to HITHAM ABUHOURAN, AKTHAM ABUHOURAN re: [451-1] MOTION TO CORRECT ORIGINAL JUDGMENT PURSUANT TO 36 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE, Certificate of Service. (sah) (Entered: 12/04/2002)
12/12/2002	463	Reply by HITHAM ABUHOURAN, AKTHAM ABUHOURAN to Govt's Supplemental response to [451-1] MOTION TO CORRECT ORIGINAL JUDGMENT PURSUANT TO 36 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE, Cert. of Service. (jh) (Entered: 12/13/2002)
12/13/2002	464	MEMORANDUM AND ORDER DATED 12/12/02 AS TO AKTHAM ABUHOURAN GRANTING [406-1] MOTION FOR SUPPLEMENTAL JUDGMENT AND ORDER OF FORFEITURE AND DENYING [404-1] MOTION FOR RETURN OF PROPERTY AS TO AKTHAM ABUHOURAN. (SIGNED BY JUDGE LOUIS H. POLLAK), 12/13/02 ENTERED AND COPIES MAILED AND FAXED. (lb) (Entered: 12/13/2002)
12/13/2002	465	MEMORANDUM AND ORDER DATED 12/13/02 AS TO HITHAM ABUHOURAN AND AKTHAM ABUHOURAN THAT WITHIN THIRTY DAYS, HITHAM ABUHOURAN SUBMIT TO THIS COURT WITH A COPY TO AUSA ROBERT ZAUZMER, ESQ. A RECENT RECORD OF HIS PRISON ACCOUNT BALANCE AND A SIGNED STATEMENT LISTING HIS CURRENT ASSESTS. WITHIN THIRTY DAYS AKTHAM ABUHOURAN SUBMIT TO THIS COURT, WITH A COPY TO AUSA A RECENT RECORD OF HIS PRISON

		ACCOUNT BALANCE AND A SIGNED STATEMENT LISTING HIS CURRENT ASSESTS, ETC., WITH CONDITIONS. [451-1] DEFENDANT'S MOTION TO CORRECT ORIGINAL JUDGMENT PURSUANT TO 36 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE IS DENIED. (SIGNED BY JUDGE LOUIS H. POLLAK), 12/13/02 ENTERED AND COPIES MAILED AND FAXED. (lb) (Entered: 12/13/2002)
01/07/2003	468	PRO SE MOTION BY AKTHAM ABUHOURAN TO PROCEED IN FORMA PAUPERIS , AFFIDAVIT. (dt) (Entered: 01/08/2003)
01/17/2003	471	MEMORANDUM/ORDER OF 1/16/03 AS TO AKTHAM ABUHOURAN GRANTING [468-1] MOTION TO PROCEED IN FORMA PAUPERIS. (SIGNED BY JUDGE LOUIS H. POLLAK), 1/21/03 ENTERED AND COPIES MAILED AND FAXED. (dt) (Entered: 01/21/2003)
01/24/2003	475	PRO SE MOTION BY HITHAM ABUHOURAN, AKTHAM ABUHOURAN TO PROCEED IN FORMA PAUPERIS , CERTIFICATE OF SERVICE. (dt) (Entered: 01/24/2003)
01/24/2003	478	Notice of Appeal by AKTHAM ABUHOURAN. Filing Fee \$ IFP PENDING. Copies to JUDGE LOUIS H. POLLAK , Clerk USCA, Appeals Clerk, and ROBERT A. ZAUZMER (dt) (Entered: 01/24/2003)
01/24/2003	479	Copy of Clerk's notice to USCA as to AKTHAM ABUHOURAN re: [478-1] appeal . (dt) (Entered: 01/24/2003)
01/27/2003		Notice of Docketing ROA from USCA as to AKTHAM ABUHOURAN Re: [478-1] appeal USCA Number: 03-1242 (cmc) (Entered: 01/27/2003)
01/31/2003		Record on Appeal as to AKTHAM ABUHOURAN returned from U.S. Court of Appeals: [456-1] appeal, [446-1] appeal (dt) (Entered: 01/31/2003)
02/03/2003	480	Certified Copy of Order Returned from U.S.C.A. Third Circuit as to Aktham Abuhouran that The foregoing request for a certificate of appealability in the appeal docketed at 01-3516 is denied because the appellant has failed to make a substantial showing of the denial of a constitutional right. We agree with the Disitrcit Court that the appellant's claims lack the merit and note, in addition that his challenge to the indictment is likely waived because he did not present it on direct appeal. the appeal docketed at 02-3344 is dismissed as moot. the motions for appointment of counsel and to expedite are denied. (dt) (Entered: 02/03/2003)
04/14/2003	481	Certified Copy from U.S.C.A. Third Circuit as to AKTHAM ABUHOURAN that the Motion by Appellant to Recall the Mandate which may be construed as a Motion to Reopen the Case. Response by Appellee to Motion to Recall the Mandate, Reply by Appellant. It is Ordered that the Motion is Denied. (dt) (Entered: 04/14/2003)
05/22/2003	484	MEMORANDUM & ORDER OF 5/21/03 AS TO HITHAM

		ABUHOURAN, AKTHAM ABUHOURAN DENYING [475-1] MOTION TO PROCEED IN FORMA PAUPERIS. (SIGNED BY JUDGE LOUIS H. POLLAK) 5/22/03 ENTERED AND COPIES MAILED. (cmc) (Entered: 05/22/2003)
06/05/2003	485	Certified Copy of Order from U.S.C.A.Third Circuit that the Above entitled case, it is entered Dismissed by The Clerk Under the Authority Conferred Upon Her by Rule 42(B), Federal Rule of Appellate Procedure as to Defendants Aktham Abuhouran, Hitham Abuhouran. (dt) (Entered: 06/06/2003)
07/08/2003	486	Certified Copy of Order from USCA (03-2646) that foregoing application by DEFT AKTHAM ABUHOURAN (4) IS DENIED as petitioners claims fail to meet the standards for filing a second or successive Motion under 28 USC 2255, Etc. (cmc) (Entered: 07/08/2003)
05/25/2004	491	MOTION TO MODIFY OR CORRECT AN IMPOSED TERM OF IMPRISONMENT, PURSUANT TO 18 U.S.C. 3582 (c)(2), CERTIFICATE OF SERVICE BY AKTHAM ABUHOURAN. (jcz,) (Entered: 05/25/2004)
05/29/2004	492	Govt. RESPONSE to [491], [490] MOTIONS to Modify ro correct an imposed term of imprisonment pursuant to 18 USC 3582(c)(2), Cert. of Service as to DEFTS HAITHAM ABUHOURAN AND AKTHAM ABUHOURAN. (ZAUZMER, ROBERT) Modified on 6/1/2004 (cmc). (Entered: 05/29/2004)
06/18/2004	493	PETITIONER'S REPLY TO GOVERNMENT'S RESPONSE TO MOTION TO MODIFY OR CORRECT AN IMPOSED TERM OF IMPRISONMENT PURSUANT TO 18 USC 3582(c)(2), CERTIFICATE OF SERVICE BY HITHAM ABUHOURAN, AKTHAM ABUHOURAN. RE: [491] MOTION TO MODIFY [490] MOTION TO MODIFY. (jcz,) (Entered: 06/18/2004)
07/30/2004	494	Letter datd 7/18/04 to JUDGE POLLACK by AKTHAM ABUHOURAN (Pro Se) re: Issues raised in light of "BLAKELY v. WASHINGTON" Decision.(cmc) (Entered: 07/30/2004)
07/30/2004	495	EMERGENCY LETTER MOTION by AKTHAM ABUHOURAN (Pro Se) dated 7/27/04 FOR LEAVE TO FILE A SECOND OR SUCCESSIVE 2255 MOTION IN LIGHT OF "BLAKELY v. WASHINGTON" DECISION.(cmc) (Entered: 07/30/2004)
07/30/2004	496	ORDER THAT [495] LETTER MOTION by AKTHAM ABUHOURAN (Pro Se) dated 7/27/04 FOR LEAVE TO FILE A SECOND OR SUCCESSIVE 2255 MOTION IN LIGHT OF "BLAKELY v. WASHINGTON" DECISION as to AKTHAM ABUHOURAN (4) IS DENIED WITHOUT PREJUDICE. Signed by Judge LOUIS H. POLLAK on 7/30/04.7/30/04 ENTERED AND COPIES MAILED.(cmc) (Entered: 07/30/2004)
08/11/2004	497	OPINION & ORDER THAT [491] MOTION TO MODIFY OR CORRECT AN IMPOSED TERM OF IMPRISONMENT, PURSUANT

		TO 18 U.S.C. 3582 (c)(2) as to AKTHAM ABUHOURAN (4) IS DENIED. Signed by Judge LOUIS H. POLLAK on 8/9/04.8/11/04 ENTERED AND COPIES MAILED.(cmc) (Entered: 08/11/2004)
08/11/2004	<u>498</u>	ORDER AS TO AKTHAM ABUHOURAN THAT ATTORNEY JERRY S. GOLDMAN IS APPOINTED AS COUNSEL FOR THIS DEFT FOR PURPOSE OF SEEKING TO LEAVE TO FILE, IF LEAVE IS GRANTED, FILING A SECOND PETITION FOR WRIT OF HABEAS CORPUS UNDER 28:2244 AND 2255. Signed by Judge LOUIS H. POLLAK on 8/11/04.8/11/04 Entered and Copies Mailed. (cmc) (Entered: 08/11/2004)
08/17/2004	<u>500</u>	CJA 20 AS TO AKTHAM ABUHOURAN APPOINTMENT OF ATTORNEY JERRY S. GOLDMAN FOR AKTHAM ABUHOURAN . Signed by Judge LOUIS H. POLLAK on 8/11/04.8/17/04 Entered. (ke) (Entered: 08/17/2004)
11/15/2004	<u>502</u>	MOTION for Judgment of Forfeiture <i>AND FINAL ORDER OF FORFEITURE AND CERTIFICATE OF SERVICE</i> by USA as to AKTHAM ABUHOURAN. (Attachments: # <u>1</u> Exhibit A)(ZAUZMER, ROBERT) (Entered: 11/15/2004)
01/11/2005	<u>503</u>	JUDGMENT AND FINAL ORDER OF FORFEITURE AS TO AKTHAM ABUHOURAN . Signed by Judge LOUIS H. POLLAK on 1/10/05.1/11/05 Entered and Copies Mailed. (jcz) (Entered: 01/11/2005)
06/24/2005	<u>513</u>	MOTION TO VACATE/SET ASIDE/CORRECT SENTENCE (2255) UNDER 28 U.S.C. 2255, MEMORANDUM IN SUPPORT AND CERTIFICATE OF SERVICE BY AKTHAM ABUHOURAN. (CIVIL ACTION 05-3029) (jcz,) (Entered: 06/24/2005)

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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HITHAM ABUHORAN and AKTHAM ABUHOURAN, :

Plaintiffs, :

CIVIL ACTION

v. :

No. 03-3091

R.L. MORRISON, et al. :

Defendants. :

MEMORANDUM AND ORDER

YOHN, J.

September _____, 2005

Plaintiffs, brothers Hitham and Aktham Abuhouran, who are currently incarcerated at the Federal Correctional Institution (“FCI”) in Elkton, Ohio and the Federal Medical Center in Devens, Massachusetts, bring this *pro se Bivens* suit¹ against various employees of the Federal Bureau of Prisons (“BOP”)² in their official and individual capacities.³ They charge that

¹Although plaintiffs filed this suit under 42 U.S.C. § 1983, because § 1983 does not authorize suits against federal officials, I will treat plaintiffs’ claims as if they were brought pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), which established a direct cause of action against federal officials for violations of the federal constitution.

²Plaintiffs amended complaint names the following seventeen defendants: (1) Gary Buck, a counselor at FCI McKean, Pennsylvania, (2) Dan Schneider, a unit manager at FCI McKean, (3) Bernie Ellis, the warden of FCI McKean, (4) Jack Richmond, a unit manager at FCI Allenwood, Pennsylvania, (5) Mark Potova, a case manager at FCI Allenwood, (6) Tammy True, a case manager at FCI Allenwood, (7) William Fink, a counselor at FCI Allenwood, (8) Michael Zenk, the former warden of FCI Allenwood, (9) Susan Gerlinski, the warden of the Low Security Correctional Institution (“LSCI”) in Allenwood, (10) William Campbell, a unit manager at LSCI Allenwood, (11) Tracy Johns, the former warden of LSCI Loretto, Pennsylvania, (12) Don Swanson, a unit manager at LSCI Loretto, (13) R.L. Morrison, the former warden of FCI Elkton, (14) Ralph Montalvo, the assistant warden at FCI Elkton, (15) Lynn Harper, manager of Inmate Systems Management at FCI Elkton, (16) Ernest Chandler, the former warden of the Federal Detention Center (“FDC”) in Philadelphia, (17) and Edward Motley, the warden of FDC Philadelphia.

³Plaintiffs do not indicate whether they intend to sue defendants in their official or

defendants violated their rights under the First and Fifth⁴ Amendments of the United States constitution by (1) imposing "separation" assignments on plaintiffs, (2) restricting plaintiffs' correspondence between each other and third parties, (3) and by requiring plaintiffs, who are natives of Jordan and speak Arabic,⁵ to correspond solely in English. They seek money damages⁶ and an injunction permitting plaintiffs to correspond with each other and their relatives in Arabic, and ordering the BOP to house plaintiffs in the same housing unit. Presently before the court is defendants' motion to dismiss the amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), or, in the alternative, for summary judgment under Rule 56(c). Defendants contend that plaintiffs failed to exhaust their administrative remedies, that the plaintiffs failed to personally serve defendants with the complaint, and that plaintiffs' allegations fail to state a

individual capacities. Nonetheless, because plaintiffs seek injunctive relief voiding the BOP's housing and correspondence restrictions, and money damages against the individual officers, I will assume that plaintiffs intend to sue defendants in both their official and individual capacities. *See Miller v. Smith*, 220 F.3d 491, 494 (7th Cir. 2000) ("Where the plaintiff seeks injunctive relief from official policies or customs, the defendant has been sued in her official capacity; where the plaintiff alleges tortious conduct of an individual acting under color of state law, the defendant has been sued in her individual capacity.")

⁴Plaintiffs assert that their due process and equal protection claims arise under the Fourteenth Amendment. However, because the Fourteenth Amendment applies only to state actors, I will assume that plaintiffs' claims arise under the due process clause of the Fifth Amendment, which governs due process and equal protection violations by the federal government. *See Richmond v. J. A. Croson Co.*, 488 U.S. 469, 560 (1989) (observing that "the content of the Equal Protection Clause [has been] substantially applied to the Federal Government through the Due Process Clause of the Fifth Amendment.")

⁵Because plaintiffs have filed various *pro se* legal memoranda in English, it is apparent that plaintiffs are capable of reading and writing in English.

⁶In the original complaint, plaintiffs only sought injunctive relief. However, in their second reply brief, plaintiffs, for the first time, assert that they are seeking money damages. Because plaintiffs are proceeding *pro se*, I will treat the allegations raised in their reply as if they had been raised in an amended complaint, and I will permit plaintiffs to pursue their damages claims.

claim upon which relief can be granted. For the reasons set forth below, I will grant the motion.

I. BACKGROUND⁷

On October 3, 1995, plaintiffs Hitham and Aktham Abuhouran were indicted along with five other co-conspirators, including their brother Adham and their sister Adma, for their role in a complicated scheme to defraud a local bank. In September 1996, plaintiff Hitham and his sister Adma pled guilty in the United States District Court for the Eastern District of Pennsylvania. Plaintiff Aktham and his brother Adham chose to proceed to trial where they were convicted by a jury on October 29, 1996.

On May 2, 1997, before plaintiffs could be sentenced,⁸ Hitham, Aktham, and Adham were arrested under suspicion of conspiring to deposit counterfeit checks. Aktham and Adham were eventually released on electronic monitoring, but Hitham, who allegedly orchestrated the counterfeit check scheme, remained in federal custody. Sentencing for the three brothers on the bank fraud charges was scheduled for August 1997. However, on August 14, 1997, Aktham, Adham, and Adma abandoned their electronic monitoring bracelets and attempted to flee the country. Authorities apprehended Aktham that night at John F. Kennedy Airport in New York. Adham and Adma managed to elude authorities and are currently fugitives believed to be living

⁷I have assembled the following facts from the allegations in plaintiffs' amended complaint, affidavits and other documents submitted by both parties on the exhaustion issue, and from prior judicial opinions that describe plaintiffs' and their siblings' criminal histories. See *United States v. Abuhouran*, 119 Fed. Appx. 402, 402-04 (3d Cir. 2005) (non-precedential); *United States v. Abuhouran*, No. 95-560, U.S. Dist. LEXIS 24723, *1-*2 (E.D. Pa. Dec. 12, 2002); *United States v. Abuhouran*, No. 01-629, 2002 U.S. Dist. LEXIS 22905, *1-*2 (E.D. Pa. Nov. 26, 2002).

⁸Adma was sentenced to four months home detention on March 24, 1997.

in Jordan.⁹

In August 1997, Hitham and Aktham were sentenced to 188 months and 109 months in prison for their role in the bank fraud. Initially, plaintiffs were both incarcerated at FCI Fort Dix, New Jersey. However, beginning on March 19, 1998, plaintiffs have been housed in separate BOP facilities. Apparently, plaintiffs were given "separation" assignments pursuant to the Central Inmate Monitoring program ("CIM")¹⁰ at the behest of the United States attorney due to the government's ongoing investigation into plaintiffs' criminal conduct. (Pls.' Reply to Defs.' Mot. at 11.) Inmates with "separation assignments" "may not be confined in the same institution (unless the institution has the ability to prevent any physical contact between the separatees) with other specified individuals who are presently housed in federal custody . . ." 28 C.F.R. § 524.72.

In June 1998, while Hitham was incarcerated at FCI McKean, Pennsylvania, and Aktham was housed at FCI Allenwood, Pennsylvania, Hitham filed an administrative request seeking permission to correspond with Aktham. (Certification of Darrin Howard dated September 10, 2004 ("September 2004 Howard Certification") at ¶ 12.) The request was denied by officials at FCI McKean. (*Id.*) Hitham appealed the decision to the BOP's Northeast Regional Office, which overruled FCI McKean and granted Hitham's request in part.¹¹ (*Id.* at ¶ 13.) Although

⁹According to plaintiffs' latest brief, Adma has recently returned to the United States, and was sentenced to seven months for fleeing the country while in federal custody. (Pls.' Second Reply to Defs.' Mot at 13.)

¹⁰Inmates who "present special needs for management" and require "a higher level of review" are designated CIM cases. 28 C.F.R. § 524.70.

¹¹Hitham subsequently appealed the Regional Office's partial denial to the BOP's Central Office, which upheld the prior decision. (September 2004 Howard Certification at ¶ 14.) Neither party has described the specifics of the Regional Office's decision, but apparently,

plaintiffs were permitted to correspond with each other following the Regional Office's decision, they contend that various employees at FCI McKean and FCI Allenwood¹² required plaintiffs to correspond solely in English because they were angered by the decision of the Regional Office. (Am. Compl. at 2.)

On August 30, 2001, while Hitham was housed at FCI Elkton, and Aktham was housed at FCI Ray Brook, New York, Hitham filed an administrative request with his institutional counselor seeking permission to correspond with Aktham. (Ex. D to Def.'s Reply to Pl.'s Mot. for Summ. J.) There is no evidence that FCI Elkton responded to this request. However, on October 10, 2001, defendant Morrison, the warden of FCI Elkton at the time, imposed new¹³ restrictions on plaintiffs' correspondence. Morrison prohibited Hitham from corresponding by mail with Aktham, Adham, Adma, and Anna Kennedy, a friend living in Rhode Island. (Ex. E to Pls.' Reply to Defs.' Mot.) Morrison also required Hitham to leave all outgoing correspondence unsealed and to "conduct all written correspondence in English." (*Id.*) In a memorandum describing the new restrictions, Morrison explained that because Adham and Adma had been "identified as leaving the country with a criminal charge/warrant in place," because Hitham had used a "third person" to correspond with Aktham, and because Hitham's previous correspondence with his siblings "ha[d] been identified as containing coded language," Hitham's "continued correspondence with these individuals [was] a continuing security risk and a threat to

plaintiffs were permitted to correspond with each other following the Regional Office's decision.

¹²Specifically, plaintiffs allege that defendants Buck, Ellis, Schneider, Richmond, True, Fink, Gerlinski, and Campbell conspired to impose the 1998 "English only" requirement on plaintiffs. (Am. Compl. at 2-4.)

¹³In their amended complaint, plaintiffs characterize the restrictions imposed by defendant Morrison as "whole new restriction[s]." (Am. Compl. at 5.)

the orderly running of the institution.”¹⁴ (*Id.*)

Plaintiffs allege that Morrison and two other employees at FCI Elkton¹⁵ conspired with the other named defendants to impose these restrictions on plaintiffs in violation of their First and Fifth Amendment rights. (Am. Compl. at 4.) Plaintiffs contend that the restrictions are racially motivated and violate their right to equal protection under the law.¹⁶ According to plaintiffs, “most of the defendants” made discriminatory remarks to plaintiffs such as, “This is America. Why should you speak any other language? This is not Arabia.” (Am. Compl. at 6.) Further, defendants allegedly threatened to place plaintiffs in segregation if they attempted to correspond in Arabic. (*Id.*)

At the conclusion of Morrison’s memorandum describing the new correspondence restrictions, he advised Hitham that if he disagreed with the restrictions, he could file an administrative complaint through the BOP’s “Administrative Remedy Program.” (Ex. E to Pls.’ Reply to Defs.’ Mot.) Between November and December 2001, Hitham filed three administrative complaints challenging the correspondence restrictions. (September 2004 Howard

¹⁴At first glance, these correspondence restrictions only appear to affect Hitham’s constitutional rights. Nonetheless, in *Nadir v. Morgan*, 350 F.3d 366, 369 n.3 (3d Cir. 2003), the Third Circuit permitted a prisoner to raise the First Amendment rights of a former prisoner with whom the current prisoner was prohibited from corresponding because the Supreme Court’s decision in *Procurier v. Martinez*, 416 U.S. 396, 408–09 (1974), “suggests that a total ban on correspondence between two people implicates the First Amendment rights of both in a way that is inextricably intertwined.” Here, because FCI Ekton’s regulations substantially restrict correspondence between Hitham and Aktham, I will assume that these provisions also implicate Aktham’s constitutional rights.

¹⁵Defendants Harper and Montalvo also allegedly conspired with Morrison to restrict plaintiffs’ correspondence. (Am. Compl. at 4.)

¹⁶Although plaintiffs do not explicitly invoke equal protection, I will assume that plaintiffs’ claims alleging racial discrimination arise under the equal protection component of the Fifth Amendment.

Certification at ¶ 15.) However, all three complaints were filed with the BOC's Northeast Regional Office, instead of Hitham's designated institution, FCI Elkton, as required by BOP regulations. *See* 28 C.F.R. § 542.14(c) (providing that inmates shall submit "formal written Administrative Remedy Request[s]" to "the *institution* staff member designated to receive such Requests . . .") (emphasis added). All of Hitham's complaints were rejected for failure to comply with administrative procedure, and Hitham was instructed to resubmit his requests with FCI Elkton. (September 2004 Howard Certification at ¶ 15; Ex. I to Pls.' Reply to Defs.' Mot.) There is no evidence that Hitham ever resubmitted the complaints through FCI Elkton.

On January 5, 2002, Hitham filed a petition for writ of habeas corpus under 28 U.S.C. § 2241 in the United States District Court for the Northern District of Ohio challenging FCI Elkton's correspondence restrictions. The court dismissed the petition because such challenges to conditions of confinement may only be raised in a civil rights suit under *Bivens*. *See Abuhouran v. R.L. Morrison*, 46 Fed. Appx. 349, 349 (6th Cir. 2002) (non-precedential) (upholding the district court's determination).

On April 25, 2002, plaintiffs were indicted for their role in the counterfeit check scheme. On August 13, 2002, both plaintiffs were transferred to the Federal Detention Center ("FDC") in Philadelphia to await trial on these charges.¹⁷ FDC Philadelphia continued to keep plaintiffs in separate housing units pursuant to their "separation" assignments. Plaintiffs allege that defendants Ernest Chandler and Edward Motley, the former and current wardens of FDC Philadelphia, violated plaintiffs' constitutional rights by failing to remove the "separation"

¹⁷Plaintiffs eventually pled guilty to these charges on March 26 and 27, 2003. Hitham was sentenced to 60 months in prison for his role in the scheme, and Aktham was sentenced to 42 months in prison.

assignments and the correspondence restrictions. (Am Compl. at 6.)

On November 12, 2002, Aktham filed an administrative complaint with FCI Ray Brook, New York, his designated institution,¹⁸ challenging the “separation” assignments. (September 2004 Howard Certification at ¶ 6.) The complaint was denied on December 13, 2002. (*Id.*) On January 11, 2003, Aktham appealed the decision to the BOP’s Northeast Regional Office, which upheld FCI Ray Brook’s decision. (*Id.* at ¶ 7.) On February 21, 2003, Aktham appealed to the BOP’s Central Office, which also rejected his complaint. (*Id.* at ¶ 8.)

On May 14, 2003, while plaintiffs were housed at FDC Philadelphia, they filed this *Bivens* action against defendants Morrison and Chandler seeking injunctive relief. The court granted plaintiffs leave to proceed *in forma pauperis* on July 7, 2003. On May 6, 2004, plaintiffs filed an amended complaint naming fifteen additional defendants.

On September 29, 2004, defendants filed the instant motion to dismiss, or, alternatively, for summary judgment. When plaintiffs failed to file a timely response after several extensions of time, the court granted the motion and dismissed the amended complaint on May 10, 2005. Three days later, Hitham filed a response and the court vacated the prior order and reinstated the case. Defendants filed a consolidated reply on June 30, 2005, and plaintiffs filed their reply thereto on July 25, 2005.

Since plaintiffs filed the initial complaint, Hitham has been transferred back to FCI Elkton, and Aktham has been transferred to the Federal Medical Center in Devens,

¹⁸Although Aktham was detained at FDC Philadelphia at the time, because he was assigned to FCI Ray Brook, that was the proper institution to hear his administrative complaint. Apparently, Aktham initially filed with FDC Philadelphia, but then properly filed with FCI Ray Brook after his initial complaint was rejected for failure to comply with the administrative remedy procedure.

Massachusetts, where he is receiving treatment for a medical condition.

II. STANDARD OF REVIEW

Defendants have styled their motion as a motion to dismiss, or, alternatively, as a motion for summary judgment. Ordinarily, a court will convert a motion to dismiss into a motion for summary judgment if it considers evidence beyond the complaint. *Anjelino v. New York Times Co.*, 200 F.3d 73, 88 (3d Cir. 2000) (citing Fed. R. Civ. P. 12(c)). Here, both plaintiffs and defendants have submitted affidavits in response to defendants' claim that plaintiffs failed to exhaust their administrative remedies as required by the Prison Litigation Reform Act of 1995 ("PLRA"). The parties have not submitted any extraneous material with respect to defendants' other grounds for dismissal. In *Camp v. Brennan*, 219 F.3d 279, 280 (3d Cir. 2000), the Third Circuit converted the defendant prison guards' motion to dismiss for failure to exhaust administrative remedies into a motion for summary judgment because the court considered the declaration of a prison employee to resolve the issue. See also *Greer v. Smith*, 59 Fed. Appx. 491, 492 (3d Cir. 2003) (non-precedential) (vacating a district court's order dismissing a prisoner's complaint for failure to exhaust administrative remedies because the court relied on representations made in the defendants' affidavit, and failed to convert the motion into a motion for summary judgment). Similarly, here, because I will consider the parties' affidavits to resolve defendants' exhaustion argument, I will treat this portion of defendants' motion as a motion for summary judgment under Federal Rule of Civil Procedure 56(c).¹⁹ See *Steele v. Fed. Bureau of*

¹⁹"It is . . . well-established that prior to converting a motion to dismiss into a motion for summary judgment, the district court must provide adequate notice to the parties." *Hilferty v. Shipman*, 91 F.3d 573, 578 (3d Cir. 1996) (citations omitted); see also Fed. R. Civ. P. 12(b) (providing that upon the conversion of a motion to dismiss into a motion for summary judgment

Prisons, 355 F.3d 1204, 1212 (10th Cir. 2003) (observing that when a factual dispute precludes resolution of an exhaustion issue under Federal Rule of Civil Procedure 12(b)(6), “[a] motion for summary judgment limited to the narrow issue of exhaustion and the prisoner’s efforts to exhaust would then be appropriate.”); *Taylor v. N.Y. State Dep’t of Corr.*, No. 03-1929, 2004 U.S. Dist. LEXIS 25795, at *10 (S.D.N.Y. Dec. 22, 2004) (“When a defendant submits evidence outside the pleadings to demonstrate that plaintiff has not exhausted his administrative remedies . . . , the Court may treat that part of the motion as one for summary judgment . . . ”). Because neither party has submitted any material outside of the pleadings with respect to defendants’ other grounds for dismissal, I will review the balance of the motion under a motion to dismiss standard of review.

III. DISCUSSION

A. Exhaustion of Administrative Remedies

As I described above, I will convert defendants’ motion to dismiss into a motion for summary judgment for the limited purpose of resolving defendants’ exhaustion argument. A court may only grant a motion for summary judgement, “if the pleadings, depositions, answers to

“all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.”). In *Hilferty*, the court found that the plaintiff had adequate notice that the district court would convert the defendants’ motions to dismiss into motions for summary judgment because two of the five motions to dismiss were framed in the alternative as motions for summary judgment, and because the plaintiff had over eight months to respond to these motions. *Id.* at 578–79. Here, defendants also framed their motion in the alternative as a motion for summary judgment. Plaintiffs have had nearly a year to present appropriate material in response to defendants’ motion, which was originally filed in September 2004. Further, in plaintiffs’ second reply brief, they have submitted an affidavit, which may only be considered on a motion for summary judgment. For these reasons, I find that plaintiffs had sufficient notice that defendants’ motion might be treated as one for summary judgment, and had an adequate opportunity to respond with appropriate materials.

interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c). “Facts that could alter the outcome are ‘material,’ and disputes are ‘genuine’ if evidence exists from which a rational person could conclude that the position of the person with the burden of proof on the disputed issue is correct.” *Ideal Dairy Farms, Inc. v. John Labatt, Ltd.*, 90 F.3d 737, 743 (3d Cir. 1996) (citation omitted).

When a court evaluates a motion for summary judgment, “[t]he evidence of the non-movant is to be believed.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). In addition, “[a]ll justifiable inferences are to be drawn in [the non-movant’s] favor.” *Id.* “Summary judgment may not be granted . . . if there is a disagreement over what inferences can be reasonably drawn from the facts even if the facts are undisputed.” *Ideal Dairy*, 90 F.3d at 744 (citation omitted). However, “an inference based upon a speculation or conjecture does not create a material factual dispute sufficient to defeat entry of summary judgment.” *Robertson v. Allied Signal, Inc.*, 914 F.2d 360, 382 n.12 (3d Cir. 1990). The non-movant must show more than “[t]he mere existence of a scintilla of evidence” for elements on which she bears the burden of production. *Anderson*, 477 U.S. at 252. Thus, “[w]here the record taken as a whole could not lead a rational trier of fact to find for the non-moving party, there is no ‘genuine issue for trial.’” *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986) (citations omitted).

The PLRA requires prisoners to exhaust “such administrative remedies as are available” before challenging prison conditions in court. 42 U.S.C. § 1997e(a). This requirement “applies equally to § 1983 actions and to *Bivens* actions.” *Nyhuis v. Reno*, 204 F.3d 65, 68 (3d Cir. 2000)

(citation omitted). To comply with the PLRA's exhaustion requirement, prisoners must exhaust all available administrative remedies. *Id.* at 75; *see also Murphy v. Kearney*, No. 03-554, 2004 U.S. Dist. LEXIS 7079, at *8-*9 (D. Del. Apr. 19, 2004) ("To exhaust all available administrative remedies, a prisoner must complete all stages of review or take part in the appeals process."). Further, in the Third Circuit, a prisoner must *properly* exhaust his remedies by following the procedural rules governing his prison's grievance process. *See Spruill v. Gillis*, 372 F.3d 218, 231–32 (3d Cir. 2004) (observing that prisoner procedural defaults should be governed by "the applicable prison grievance system."); *Pozo v. McCaughtry*, 286 F.3d 1022, 1025 (7th Cir. 2002) ("To exhaust remedies, a prisoner must file complaints and appeals in the place, and at the time, the prison's administrative rules require."). If a prisoner fails to properly exhaust administrative remedies, and the prison's procedural rules bar the prisoner from seeking further relief, the claim is procedurally defaulted, and federal courts may not reach its merits.²⁰ *See Spruill*, 372 F.3d at 230 (3d Cir. 2004) ("We believe that Congress's policy objectives will be . . . better served by interpreting § 1997e(a)'s exhaustion language to include a procedural default component than by interpreting it merely to require termination of all administrative grievance proceedings.").

²⁰The Seventh and Tenth Circuits have also interpreted the PLRA's exhaustion requirement to include a procedural default component. *See Ross v. County of Bernalillo*, 365 F.3d 1181, 1186 (10th Cir. 2004) ("The PLRA, like 28 U.S.C. § 2254, contains a procedural default concept within its exhaustion requirement."); *Pozo v. McCaughtry*, 286 F.3d 1022, 1025 (7th Cir. 2002). In contrast, the Sixth and Ninth Circuits have determined that "the PLRA's exhaustion requirement does not bar subsequent judicial consideration of an exhausted administrative appeal that was denied on state procedural grounds." *Ngo v. Woodford*, 403 F.3d 620, 631 (9th Cir. 2005); *see also Thomas v. Woolum*, 337 F.3d 720, 723 (6th Cir. 2003) ("We hold that so long as an inmate presents his or her grievance to prison officials and appeals through available procedures, the inmate has exhausted his or her administrative remedies, and a prison's decision not to address the grievance because it was untimely under prison rules shall not bar the federal suit.").

The BOP's administrative remedy procedure provides for three levels of formal review.²¹

See 28 C.F.R. 542.10–542.19. First, a prisoner must file a formal written administrative request with his designated institution²² within “20 calendar days following the date on which the basis for the Request occurred.” 28 C.F.R. §§ 542.14. If the prisoner is not satisfied with the institution’s response, he may submit an appeal with the appropriate Regional Office. 28 C.F.R. § 542.15(a). A prisoner may appeal the Regional Office’s response to the Central Office. *Id.*

Defendants contend that plaintiffs never properly exhausted their administrative remedies with respect to their challenge to the BOP’s correspondence restrictions. Although plaintiffs allege that the 1998 “English only” restrictions imposed by officials at FCI McKean and FCI Allenwood violated their constitutional rights, they never challenged these restrictions through the BOP’s grievance process.²³ Because plaintiffs are no longer housed at either of these institutions, and because these restrictions have been replaced by the 2001 restrictions adopted at FCI Elkton, any attempt to challenge these restrictions, or the conduct of officials in connection with these restrictions, would be time-barred pursuant to 28 C.F.R. § 542.14(a)’s twenty-day time limit for administrative grievances. Because plaintiffs are procedurally barred from raising any claim in connection with the 1998 correspondence restrictions, these claims are procedurally

²¹Under the regulations governing the BOP’s remedy process, before prisoners may file a formal grievance, they must “first present an issue of concern informally to staff.” 28 C.F.R. § 542.13. The informal remedy process is not at issue here.

²²The regulations provide four limited exceptions to the requirement that prisoners must initially file grievances with their designated institution. *See* 28 C.F.R. § 542.13(d). Plaintiffs do not contend that any of these exceptions apply here.

²³Hitham’s appeal to the BOP’s Central Office dated August 31, 1998 does not reference the “English only” policy. (See Ex. A to Pls.’ Reply to Defs.’ Mot.)

defaulted, and I will dismiss these claims with prejudice.²⁴ See *Spruill*, 372 F.3d at 230.

Defendants also argue that plaintiffs have failed to properly exhaust their challenge to the 2001 correspondence restrictions. Hitham filed three administrative complaints challenging these restrictions between November and December 2001.²⁵ However, he filed all three complaints with the BOP's Northeast Regional Office, instead of his designated institution as required by 28 C.F.R. § 542.14(c). The Regional Office rejected all of Hitham's complaints for failure to comply with administrative procedure and clearly instructed him to resubmit his requests with FCI Elkton. However, there is no evidence that Hitham ever resubmitted the complaints through FCI Elkton. (See Ex. I to Pls.' Reply to Defs.' Mot.)

In an affidavit accompanying plaintiffs' second reply brief, Hitham asserts that officials at FCI Elkton are responsible for any deficiencies in his administrative proceedings because he "personally handed" administrative grievance forms to his "Unit Team," and "fully relied" on their assistance to exhaust his administrative remedies. (Ex. C to Pl.'s Second Reply to Def.'s Mot. for Summ. J.) Even if I view this evidence in the light most favorable to plaintiffs, which I must do for the purposes of this motion, it does not create a genuine issue of material fact, or excuse Hitham's failure to properly exhaust his administrative remedies. The BOP rejected Hitham's administrative complaints because he erroneously directed his complaints to the regional office. Prisoners themselves determine where their complaints are directed by filling out

²⁴Even if plaintiffs properly exhausted their claim for injunctive relief voiding the 1998 "English only" correspondence restrictions, this claim would be moot because plaintiffs concede that these restrictions have been replaced by the 2001 restrictions. See *N.J. Tpk. Auth. v. Jersey Cent. Power & Light*, 772 F.2d 25, 31 (3d Cir. 1985) ("The doctrine of mootness requires that 'an actual controversy must be extant at all stages of review, not merely at the time the complaint is filed.'") (quoting *Steffel v. Thompson*, 415 U.S. 452, 459 n.10 (1974)).

²⁵There is no evidence that Aktham ever challenged these restrictions.

the remedy forms that correlate with the appropriate level of review. Hitham does not contend that his "Unit Team" completed the grievance forms for him, and thus, they cannot be responsible for his failure to submit his requests with the appropriate administrative decision-maker.

Although plaintiffs have clearly failed to properly exhaust their administrative remedies with respect to the 2001 correspondence restrictions, they are not procedurally barred from challenging these restrictions in another administrative request. Because the 2001 restrictions remain in place, plaintiffs are not affected by 28 C.F.R. § 542.14(a)'s twenty-day time limit, and they may file a new grievance with the BOP at any time.²⁶ For these reasons, I will grant defendants' motion for summary judgment with respect to plaintiffs' challenge to the 2001 correspondence restrictions, and I will dismiss these claims without prejudice. *See Blackwell v. Vaughn*, No. 97-3467, 2001 U.S. Dist. LEXIS 10893, at *4-*5 (E.D. Pa. July 3, 2001) ("On a motion for summary judgment, all unexhausted claims will be dismissed under the PLRA.") (citations omitted).

Defendants concede that Aktham exhausted his administrative remedies with respect to plaintiffs' "separation" assignments.²⁷ (Defs.' Br. in Supp. of Mot. at 19.) Consequently, I will consider the merits of these claims.²⁸

²⁶Of course, the time limit may bar plaintiffs from challenging any of the specific acts by defendants that they complain about.

²⁷Although Hitham technically failed to exhaust administrative remedies with respect to the "separation" assignments, because plaintiffs seek the same relief, and because Aktham properly exhausted his administrative remedies, it makes little practical difference whether or not I dismiss Hitham's claim for failure to exhaust administrative remedies.

²⁸There is some disagreement among the federal courts of appeals as to whether the PLRA permits a district court to review an exhausted claim brought by a prisoner when the

B. Sufficiency of Service of Process

Defendants argue that plaintiffs' remaining claims should be dismissed under Federal Rule of Civil Procedure 12(b)(5)²⁹ for insufficient service of process because plaintiffs failed to serve the United States Attorney General or any individual defendants. Under Federal Rule of Civil Procedure 4(i), which governs service upon the United States and its employees, when an employee of the United States is sued in his or her personal capacity, "service of process shall be effected by delivering a copy of the summons and of the complaint to the United States attorney for the district in which the action is brought . . . to the Attorney General of the United States . ." and to the individual defendants. Fed. R. Civ. P. 4(i)(1) & 2(B). Here, contrary to defendants'

complaint also raises unexhausted claims. *Compare Ortiz v. McBride*, 380 F.3d 649, 663 (2d Cir. 2004) ("[W]e do not think that requiring district courts to dismiss the entirety of any prison-conditions action that contains exhausted and unexhausted claims, and thereby requiring prisoners to institute their actions containing only the exhausted claims in federal court all over again, is a meaningful way to 'reduce the quantity and improve the quality of prisoner suits,' or to 'help bring relief to a civil justice system overburdened by frivolous prisoner lawsuits'"') (internal citations omitted), *with Jones Bey v. Johnson*, 407 F.3d 801, 806 (6th Cir. 2005) (holding that "total exhaustion is required under the PLRA."), *and Ross v. County of Bernalillo*, 365 F.3d 1181, 1190 (10th Cir. 2004) (same) *and Graves v. Norris*, 218 F.3d 884, 885 (8th Cir. 2000) (per curiam) ("When multiple prison condition claims have been joined . . . the plain language of § 1997e(a) requires that all available prison grievance remedies must be exhausted as to all of the claims."). The Third Circuit has not resolved this issue, although, in a recent non-precedential opinion, the court upheld a district court's order dismissing a prisoner's complaint because he failed to exhaust administrative remedies on *all of the claims* in his complaint. *See Vazquez v. Ragoneese*, No. 05-1203, 2005 U.S. App. LEXIS 16118, at *1-*2 (3d Cir. Aug. 4, 2005) (non-precedential); *see also Rivera v. Whitman*, 161 F. Supp. 2d 337, 343 (D.N.J. 2001) (concluding that "the plain language of the § 1997e(a), as well as the legislative intent and policy interests behind it, compels a 'total exhaustion' rule."). Nonetheless, here, because defendants have not raised a "total exhaustion" argument, and because the issue remains unsettled in this circuit, I will assume for the purposes of this case only that the PLRA does not include a "total exhaustion" component, and I will address the merits of plaintiffs' exhausted claims.

²⁹Although defendants' motion solely purports to rely on Rule 12(b)(6), because courts may only dismiss a complaint for insufficient service of process under Rule 12(b)(5), I will assume that defendants intend to seek relief under this provision.

assertions, the docket report indicates that the United States attorney, the Attorney General, and each individual defendant, have been properly served.³⁰ Moreover, even if defendants have not been properly served, this was not plaintiffs' responsibility because the court authorized them to proceed *in forma pauperis*. Under Federal Rule of Civil Procedure 4(c)(2), in cases where the plaintiff is authorized to proceed *in forma pauperis*, service is to "be effected by the United States marshal, deputy United States marshal, or other person or officer appointed by the court for the purpose." *See also* 8 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process, and perform all duties in [*in forma pauperis*] cases."). Here, the court absolved plaintiffs of any responsibility to effectuate service of process when it granted plaintiffs leave to proceed *in forma pauperis* on July 7, 2003. For these reasons, I will deny defendants' motion to dismiss with respect to the service of process issue.

C. The "Separation" Assignments

Plaintiffs only remaining claim alleges that plaintiffs' "separation" assignments violate their right to due process. (Pls.' Reply to Defs.' Mot. at 11.) They seek injunctive relief voiding the assignments and money damages in connection with defendants' imposition of these restrictions. (Pls.' Second Reply to Defs.' Mot.) Defendants contend that these allegations fail to state a claim upon which relief can be granted. *See* Fed. R. Civ P. 12(b)(6).

In ruling on a motion to dismiss under Rule 12(b)(6), the court must accept as true all well-pled allegations of fact in the plaintiff's complaint, and any reasonable inferences that may

³⁰According to the docket report, the United States Attorney and the United States Attorney General were served on May 12, 2004. Defendant Chandler was personally served by the United States' Marshals' Service on August 1, 2003, defendant Morrison was personally served by the United States Marshals' Service on August 5, 2003, and the remaining defendants were personally served by the United States' Marshals' Service on May 17, 2004.

be drawn therefrom, to determine whether "under any reasonable reading of the pleadings, the plaintiff may be entitled to relief." *Nami v. Fauver*, 82 F.3d 63, 65 (3d Cir. 1996); *Colburn v. Upper Darby Township*, 838 F.2d 663, 665–66 (3d Cir. 1988) (citations omitted). Although the court must construe the complaint in the light most favorable to the plaintiff, it need not accept as true legal conclusions or unwarranted factual inferences. *See Conley v. Gibson*, 355 U.S. 41, 45–46 (1957). Courts will grant a 12(b)(6) motion to dismiss "only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." *Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984). *Pro se* complaints, such as plaintiffs, "must be held to 'less stringent standards than formal pleadings drafted by lawyers' and can only be dismissed for failure to state a claim if it appears 'beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.'" *Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (citation omitted).

1. *Plaintiffs' claim for injunctive relief*

Because plaintiffs have failed to provide any further details about the legal theory behind their challenge to the "separation" assignments, I will assume that plaintiffs intend to proceed under the line of cases that have established a fundamental substantive due process right to association among family members. *See, e.g., Moore v. East Cleveland*, 431 U.S. 494, 503–04 (1977) (plurality opinion) (invalidating a zoning ordinance that intruded on family living arrangements because "the Constitution protects the sanctity of the family"). When prisoners have attempted to invoke these cases to obtain family visitation rights, courts have uniformly held that the constitution does not confer a right to visitation upon prisoners and their family

members.³¹ See *Mayo v. Lane*, 867 F.2d 374, 375–76 (7th Cir. 1989) (“Prison necessarily disrupts the normal pattern of familial association, so lawful imprisonment can hardly be thought a deprivation of the *right* of relatives to associate with the imprisoned criminal.”) (emphasis in original) (citation omitted); *Neumeyer v. Beard*, No.02-2152, 2003 U.S. Dist. LEXIS 24066, at *10-11 (M.D. Pa. Nov. 20, 2003) (“It is well-settled that convicted prisoners, their family and spouses have no constitutional right to visitation.”); *Africa v. Vaughn*, 1996 U.S. Dist. LEXIS 1622, at *1 (E.D. Pa. Feb. 14, 1996) (same); cf. *Jones v. N.C. Prisoners’ Labor Union, Inc.*, 433 U.S. 119, 125 (1977) (“The concept of incarceration itself entails a restriction on the freedom of inmates to associate with those outside of the penal institution. Equally as obvious, the inmate’s ‘status as a prisoner’ and the operational realities of a prison dictate restrictions on the associational rights among inmates.”). If prisoners have no constitutional right to receive visits from family members who are not incarcerated, they certainly have no protected right to associate with family members who are incarcerated. Hence, because plaintiffs have failed to allege an underlying constitutional violation to support their *Bivens* action, I will dismiss their claim for injunctive relief challenging the BOP’s “separation” assignments under Federal Rule of Civil Procedure 12(b)(6).³²

³¹Courts have also rejected attempts by prisoners to obtain family visitation rights under the First Amendment. See *Thorne v. Jones*, 765 F.2d 1270, 1274 (5th Cir. 1985) (“Such incarcerated persons as [plaintiffs] maintain no right to simple physical association -with their parents or with anyone else -grounded in the first amendment.”)

³²To the extent that plaintiffs intend to argue that they have a protected liberty interest under the procedural component of the due process clause in being assigned to a particular institution, or in a particular security classification, the Supreme Court has specifically rejected these arguments. See *Moody v. Daggett*, 429 U.S. 78, 88 (1976) (“Congress has given federal prison officials full discretion to control [prisoner classification and eligibility for rehabilitative programs] . . . and petitioner has no legitimate statutory or constitutional entitlement sufficient to invoke due process.”); *Meachum v. Fano*, 427 U.S. 215, 223–29 (1976) (determining that no due

2. *Plaintiffs' claim for damages against individual defendants*

Plaintiffs assert that they are somehow entitled to money damages as a result of the imposition of their "separation" assignments. Defendants counter that they are immune from suit under the doctrine of qualified immunity. When a defendant in a *Bivens* action raises qualified immunity, the court must apply the following two-step approach. First, the court must determine whether "the facts alleged show the officer's conduct violated a constitutional right?" *Saucier v. Katz*, 533 U.S. 194, 201 (2001). Next, "if a violation could be made out on a favorable view of the parties' submissions," the court must decide "whether the right was clearly established." *Id.*

Here, plaintiffs appear to blame an unidentified U.S. attorney, rather than any named defendant, for their "separation" assignments. Plaintiffs assert that they were given "separation" assignments because the U.S. attorney expressed "false concerns" about the potential for ongoing criminal conduct between plaintiffs. (Pls.' Reply to Defs.' Mot. at 11.) At the outset, plaintiffs' claim against the U.S. attorney must fail because they neglected to include the U.S. attorney as a defendant in the amended complaint. Further, even if the U.S. attorney were a named defendant, he or she would have qualified immunity against any claims in connection with plaintiffs' separation assignments. As I described above, plaintiffs' allegations with respect to the separation assignments fail to state a valid constitutional claim. Additionally, plaintiffs have failed to provide any specific allegations describing the alleged "false concerns" expressed by the U.S. attorney that might suggest that the U.S. attorney's conduct violated a constitutional right.

See Saucier, 533 U.S. at 201. Finally, the unidentified U.S. attorney's concerns about an ongoing

process protections were required upon the discretionary transfer of state prisoners to a prison with less desirable living conditions); *see also Hewitt v. Helms*, 459 U.S. 460, 468 (1983) ("It is plain that the transfer of an inmate to less amenable and more restrictive quarters for nonpunitive reasons is well within the terms of confinement ordinarily contemplated by a prison sentence.")

criminal conspiracy between plaintiffs were apparently well-founded because both plaintiffs pled guilty to engaging in a conspiracy to cash counterfeit checks while they were in federal custody. For these reasons, defendants, and the U.S. attorney, have qualified immunity against plaintiffs' damages claim, and I will grant defendants' motion to dismiss on these claims.

IV. CONCLUSION

For the reasons explained above, I will grant defendants' motion to dismiss, or alternatively, for summary judgment. Because the parties submitted affidavits beyond the scope of the complaint on the issue of exhaustion, I will convert this portion of defendants' motion into a motion for summary judgment. *See Fed. R. Civ. P. 12(b).* Because plaintiffs have failed to properly exhaust their administrative remedies for their challenge to the BOP's correspondence restrictions, I will grant defendants' motion for summary judgment and dismiss these claims. I will dismiss plaintiffs' challenge to the 1998 "English only" restrictions with prejudice because plaintiffs are procedurally barred from raising these claims under the BOP's twenty-day time limit for administrative grievances. I will dismiss plaintiffs' challenge to the 2001 correspondence restrictions without prejudice because these restrictions remain in place, and thus, plaintiffs may file a new grievance challenging these restrictions at any time. Lastly, because plaintiffs have no constitutional right to familial association while incarcerated, I will dismiss plaintiffs' challenge to their "separation" assignments under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. An appropriate order follows.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HITHAM ABUHORAN and AKTHAM ABUHOURAN, :
Plaintiffs, :
: CIVIL ACTION
v. :
: No. 03-3091
R.L. MORRISON, et al. :
Defendants. :
:

ORDER

AND NOW, this _____ day of September, 2005, upon consideration of defendants' motion to dismiss plaintiffs' amended complaint, or, alternatively, for summary judgment (Doc. No. 62), plaintiffs' opposition thereto (Doc. No. 72), defendants' consolidated reply in further support of their motion (Doc. No. 77), and plaintiffs' reply thereto (Doc. No. 80), it is hereby ORDERED that the motion is GRANTED as follows:

1. Plaintiffs' challenge to FCI McKean's 1998 correspondence restrictions is DISMISSED with prejudice.
2. Plaintiffs' challenge to FCI Elkton's 2001 correspondence restrictions is DISMISSED without prejudice.
3. Plaintiffs' challenge to their "separation" assignments is DISMISSED with prejudice.
4. The amended complaint is DISMISSED.
5. The Clerk is directed to mark this case CLOSED for statistical purposes.

William H. Yohn, Jr., J.

